

MT LEGISLATIVE HISTORY

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Chapter 294 1989

Bill H (S) 122

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Mar 06 ✓ C

Hearing Date(s) Jan 19 ✓ C

 C

Jan 20 ✓ C

 C

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Date Out 3/6 ✓ C

 C

Did this bill originate in an interim committee? Yes No

Committee

Report

SENATE FINAL STATUS

3/16 SIGNED BY SPEAKER
 3/17 TRANSMITTED TO GOVERNOR
 3/22 SIGNED BY GOVERNOR
 CHAPTER NUMBER 239 EFFECTIVE DATE: 10/01/89

SB 122 INTRODUCED BY NATHE, ET AL.
 REVISE CRIMINAL STATUTE LIMITATIONS FOR PROSECUTION
 OF CHILD SEXUAL ABUSE CRIMES

1/13 INTRODUCED
 1/13 REFERRED TO JUDICIARY
 1/19 HEARING
 1/21 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/26 2ND READING PASSED 48 0
 1/28 3RD READING PASSED 43 1

TRANSMITTED TO HOUSE
 2/21 REFERRED TO JUDICIARY
 3/06 HEARING
 3/06 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 3/08 2ND READING CONCURRED 91 0
 3/09 3RD READING CONCURRED 92 2

RETURNED TO SENATE WITH AMENDMENTS
 3/11 2ND READING AMENDMENTS CONCURRED 45 0
 3/14 3RD READING AMENDMENTS CONCURRED 48 1

3/20 SIGNED BY PRESIDENT
 3/20 SIGNED BY SPEAKER
 3/21 TRANSMITTED TO GOVERNOR
 3/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 294 EFFECTIVE DATE: 3/24/89

SB 123 INTRODUCED BY BECK, ET AL.
 PROVIDE FOR CANCELLATION AND REISSUANCE OF ERRONEOUS
 MOTOR VEHICLE CERTIFICATES OF OWNERSHIP

1/13 INTRODUCED
 1/13 REFERRED TO HIGHWAYS & TRANSPORTATION
 1/31 HEARING
 2/03 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/06 2ND READING PASSED 49 0
 2/08 3RD READING PASSED 49 0

TRANSMITTED TO HOUSE
 2/21 REFERRED TO HIGHWAYS & TRANSPORTATION
 2/28 HEARING
 3/01 COMMITTEE REPORT--BILL CONCURRED
 3/04 2ND READING CONCURRED 85 1
 3/06 3RD READING CONCURRED 93 0

RETURNED TO SENATE
 3/10 SIGNED BY SPEAKER
 3/10 SIGNED BY PRESIDENT
 3/11 TRANSMITTED TO GOVERNOR
 3/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 104 EFFECTIVE DATE: 10/01/89

SB 124 INTRODUCED BY HAGER, ET AL.
 PROHIBIT LONG-TERM CARE FACILITIES FROM REFUSING TO

1 *Senate* BILL NO. *122*
2 INTRODUCED BY *NATHAN B...*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTE OF
5 LIMITATIONS FOR PROSECUTION OF CHILD SEXUAL ABUSE CRIMES;
6 AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN
7 APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 45-1-205, MCA, is amended to read:

11 "45-1-205. General time limitations. (1) (a) A
12 prosecution for criminal homicide may be commenced at any
13 time.

14 (b) A prosecution under 45-5-502 through 45-5-505,
15 45-5-507, or 45-5-625 may be commenced within 5 years after
16 ~~the--offense--was--committed~~ the victim reaches the age of 18
17 if the victim was less than ~~±6~~ 18 years old at the time the
18 offense occurred.

19 (2) Except as otherwise provided by law, prosecutions
20 for other offenses are subject to the following periods of
21 limitation:

22 (a) A prosecution for a felony must be commenced
23 within 5 years after it is committed.

24 (b) A prosecution for a misdemeanor must be commenced
25 within 1 year after it is committed.

1 (3) The period prescribed in subsection (2) is
2 extended in a prosecution for theft involving a breach of
3 fiduciary obligation to an aggrieved person as follows:

4 (a) if the aggrieved person is a minor or incompetent,
5 during the minority or incompetency or within 1 year after
6 the termination thereof;

7 (b) in any other instance, within 1 year after the
8 discovery of the offense by the aggrieved person or by a
9 person who has legal capacity to represent an aggrieved
10 person or has a legal duty to report the offense and is not
11 himself a party to the offense or, in the absence of such
12 discovery, within 1 year after the prosecuting officer
13 becomes aware of the offense.

14 (4) The period prescribed in subsection (2) shall be
15 extended in a prosecution for unlawful use of a computer,
16 and prosecution shall be brought within 1 year after the
17 discovery of the offense by the aggrieved person or by a
18 person who has legal capacity to represent an aggrieved
19 person or has a legal duty to report the offense and is not
20 himself a party to the offense or, in the absence of such
21 discovery, within 1 year after the prosecuting officer
22 becomes aware of the offense.

23 (5) An offense is committed either when every element
24 occurs or, when the offense is based upon a continuing
25 course of conduct, at the time when the course of conduct is

LC 0833/01

1 terminated. Time starts to run on the day after the offense
2 is committed.

3 (6) A prosecution is commenced either when an
4 indictment is found or an information or complaint is
5 filed."

6 NEW SECTION. **Section 2. Applicability** [This act]
7 applies to causes of action arising after [the effective
8 date of this act].

-End-

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen on January 19, 1989, at 10:00 A.M. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, Vice Chairman Al Bishop, Senators Tom Beck, Mike Halligan, Bob Brown, Bill Yellowtail, Joe Mazurek, Loren Jenkins, R. J. "Dick" Pinsoneault, John Harp.

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Staff Attorney; Rosemary Jacoby, Secretary

Announcements/Discussion: There was none.

HEARING ON SB 135

Presentation and Opening Statement by Sponsor:

Senator Mike Halligan, District 29, presented SB 135. He said the bill was brought to his attention as a result of some District Court decisions on bankruptcy. Senator Halligan said he was Chairman of the Lien Law Study two years ago and some strong compromises and negotiations were built with the banking and financial communities on exemptions. One of the things done was to clarify what you can execute on as far as personal property and what is exempt.

List of Testifying Proponents and What Group they Represent:

Bob Pyfer, Montana Credit Unions League
Ralph Kircher, Attorney from Missoula

List of Testifying Opponents and What Group They Represent: None

Testimony:

Bob Pyfer testified in support of SB 135. He informed the committee that the Credit Unions League had been

involved with both the study committee and with the hearings during the past Legislature concerning HB 19. SB 135 clarifies the original intent. (Exhibit 1)

Ralph Kircher testified in support of the bill. He said the current situation given interpretations by Judge Peterson indicated that the current statute is stacked so the 3,000 can be used for each subclassification. In preparing some of the briefs and decisions rendered by Judge Peterson, it appears that the Legislature in 1987 did not intend that there was an aggregate for 3,000. He suggested the committee consider if that was the intent. Also, the committee should consider the definitions for implements vs. tools of the trade. He pointed out the problem in the definitions when tools exempted by the debtors, especially in bankruptcy context, are interchanging those terms. (Example: An implement that is a tractor, and a tool of the trade that is a tractor.)

Questions From Committee Members: None

Closing by Sponsor: Senator Halligan closed.

HEARING ON SB 122

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe, District 10, presented SB 122. He said this bill was an act revising the statute of limitations for the prosecution of child sexual abuse crimes. He pointed out that with the present law any prosecution of a sexual abuse crime had to take place within 5 years of the act. This causes a problem with younger children where they may have to bring charges against a parent or step parent in their own household. They are not emotionally, financially or independent enough to bring those charges. Consequently, it places the prosecution of such crimes in a tough spot because the children are reluctant to come forward at that age. The bill would raise that age up to 18 and then extend that for 5 years after 18. In that way, it would give that individual who was sexually abused a chance to become independent from the situation in which that abuse occurred.

List of Testifying Proponents and What Group they Represent:

Jeanne Kemmis, Parents Anonymous of Montana
Marc Racicot, Attorney General of Montana
Dr. Janet Allison, Ph.D
Steve Waldron, Montana Council of Mental Health Centers
Ron Silvers, Sexual Assault T. P.

Megan Hill, Catholic Conference
 John Madsen, Department of Family Services
 Janet Benson, Montana Association of Social Workers
 Toni Niklas, Montana Education Association
 Marti Adrian,
 Carol McKerrow, Montana Committee for Prevention of Child
 Abuse
 Brenda Nordlund, Montana Womens Lobby
 Fay Dozier, self
 Rosanne Davis, herself
 Mike Sherwood, himself and Montana Trial Lawyers
 Judy C. Lange, herself
 Elizabeth Williams, herself
 Susan Kraft Ball, herself
 Patricia Lukavsky Bone, herself
 Judith Carlson, Montana Association of Social Workers

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jeanne Kemmis, from Missoula, MT, testified in support of SB 122. She discussed a case decided by the Montana Supreme Court last May. She quoted from the decision that the Supreme Court said it was not for them to rewrite the statute of limitations to accommodate such claims through judicial fiat. Such tasks are vested in the Legislature. Ms. Kemmis spoke on behalf of the woman whose case was heard by the Supreme Court. She also spoke as a family law practitioner serving as a children's attorney and as the state director of a child abuse prevention program, Parents Anonymous of Montana. The result in the interest of preventing child abuse are two bills, SB 157 to extend the civil statute of limitations and SB 122 to extend the criminal statute of limitations. She pointed out that if the crime were committed to a child by a stranger, the child would come home traumatized. However, the problem is that most of the time the sexual abuse is perpetrated by someone who is in the child's family, is closely related or has some kind of authority role over that child. The adult, typically, uses threats of harm against the child and other family members. The typical response of the child is secrecy which prevails during the entire statute of limitations. She noted that SB 122 recognizes the special circumstances of secrecy common to sexual abuse of children. At majority, the child moves out of the household, is no longer subject to the intimidation of the authority figure and is capable of telling the story.

Ms. Kemmis pointed out other statute of limitation rules. She said there was no statute of limitation rules for prosecution of homicide recognizing the nature of the crime is such that there should be no limit. Also a special statute of limitation for commission of a fiduciary theft for unlawful use of computers. There is a problem with discovering the event. She submitted to the committee that the situation of child abuse includes both elements already recognized in the statutes of limitations, the nature of the crime is abhorrent and it also involves secrecy. The statute of limitation should consider the needs of children in the same way that it does for economic crime.

Ms. Kemmis pointed out that a summary of state laws (1987) noted that during the three year period of 1984 to 1986 there was significant national trend to extend statute of limitation in the criminal area of which 17 states extended. She asked the committee to strip away the unfair protection given to child molesters to force these people to face their accusers at a time when the power of intimidation is weakened, when the child is able to stand up for himself. The main reason for doing this is to provide a deterrent effect with a clear message that this behavior is intolerable.

Marc Racicot, Attorney General, pointed out that although recognizing the legitimacy of public policy which supports the imposition of the statute of limitation in civil and criminal cases, in child sexual abuse all of the dynamics of those situations were not taken into account. As a consequence, what has been learned as time has evolved, is that these problems need to be addressed in a special way. He stated that this bill was needed in the criminal justice system in order to address this problem.

Dr. Janet Allison, a licensed psychologist from Missoula, testified in favor of SB 122. She pointed out the most critical factor in understanding the importance of this legislation is that approximately 80% of child sexual abuse cases the offender is a family member or other trusted authority figure. The trusted figure uses his position of power to ensure that the child goes along with the sexual abuse and ensures the child's silence. She said that there was not the likelihood of false accusations of sexual abuse due to the tremendous stigma, family and social disruption and pain involved even in the initial stages of prosecution. (See Exhibit 2)

Steve Waldron, Montana Council of Mental Health Centers, spoke in favor of the bill. He described his office in the Mental Health Center and the terrible screaming going on in the building in the therapists office. He said these were victims of severe, brutal, sexual abuse as a child. He said it was important for the committee to know that if the offender cannot be prosecuted then the offender will continue to offend over and over again with often numerous victims. He pointed out that the offender will not come in for help until they are caught and they have gone through numerous offenses and numerous victims.

Ron Silvers, Director of the Sexual Assault Treatment Program in Helena, Montana, testified in support of the bill. He recounted one of the many dozens of example that their staff had experienced over the years. He said this bill would enable individuals such as this person to hold accountable the perpetrator of sexual assault. This bill has many benefits from a professional standpoint, two in particular. Traumatized individuals have the right to recover and, also, to gain in strength in society and be recognized as an individual who has the credibility that deserves attention. He pointed out that children in this society do not have that credibility. Individuals from the age of 18-23 at least have the right to confront their perpetrators. He said they also deal with sex offenders at the Sexual Assault Treatment Program and have the dubious benefit of treating both sides of the story. Offenders who are willing by virtue of the weight of the law and pending imposition of sentences are willing to tell their stories and the different methods they use to gain the cooperation of their young victims. Offenders when not caught and not held accountable will re-offend many many times.

Megan Hill, representing the Montana Catholic Conference, testified in support of SB 122 (Exhibit 3).

John Madsen, Department of Family Services, spoke to the committee about the cost of child sexual abuse to the state of Montana. He said that currently the DFS has an incredible increase in the number of substantiated victims. In 1981 there were 50 substantiated cases of child sexual abuse, in 1988 there were 600 victims. National studies indicate that about 1 in 10 victims are known to the Child Protective Services system, which would indicate that 6,000 children were victimized last year. Many of the identified victims

have to be placed out of home with the cost ranging from \$280 a month for a foster home to \$600-700 a day for a child hospitalized in a child psychiatric unit. He said that Mountain View School has currently 50 girls in residence with at least 80% are victims of child sexual abuse. Many of their delinquent behaviors are directly attributable to their child victimization. Pine Hills School is currently treating 40 sex offenders. The great majority were once victims of child sexual abuse. The cost of treating the boys and their victims is substantial. Currently, Montana State Prison, one fifth of the population-220 men are sex offenders with a great majority of those men being victims of child sexual abuse. That is not counting the number of victims they have, they are victims themselves. Many of the women at the Montana State Womens Correctional Facility are victims of child sexual abuse with their current problems directly attributable to their child sexual abuse.

Mr. Madsen said that the cost of dealing with these people, who are most cases offenders and also victims of child sexual abuse, cost the state of Montana. He discussed personal cases that he knew about. He discussed a current case where a man has been an educator for 15 years and has been sexually victimizing young girls in the school in which he has been teaching for the past 15 years. Victims have been known for the past 8 years; the problem in getting the man out of the school system is that DFS does not get a victim until after the statutory of limitations. He continues to this day to sexually victimize girls. He not only has access to girls while he is teaching but is also a photographer and a coach. With this change in the law, the county attorney can prosecute the man and he would not have any more victims, stated Madsen.

Janet Benson, representing Montana Association of Social Workers, testified in support of the bill. She said she worked with the Sexual Assault Treatment Program and worked with victims and offenders. She said she ran into the situation every day where children could not tell about their abuse until beyond the present statute of limitation. In the sake of preventing further sexual abuse, a mechanism to confront offenders with their behavior is needed.

Toni Niklas, representing the Montana Education Association, testified in support of the bill. She pointed out that there are students that are being sexually abused and they are often under the same roof of their offenders.

It is not until they reach the age of majority of age 18 until they usually are able to speak up. The bill would put time on the victims side and not on the offenders side. (Exhibit 4).

Marty Adrian went on record to support the bill.

Carol McKerrow representing the Helena Council for the Prevention of Child Abuse and the Montana Committee for the Prevention of Child Abuse supported the bill.

Brenda Nordlund, lobbyist for the Montana Womens Lobby, supported the bill without reservation.

Fay Dozier spoke as a survivor of sexual abuse (See Exhibit 5).

Rosanne Davis, testified in support of the bill to extend the statutes of limitations for the victims of child sex crimes. She described the physical and psychological abuse that occurred when she was as young as three years old. (Exhibit 6).

Michael Sherwood, testified in support of the bill. He said that ten years ago he served as a public defender in Missoula County (Exhibit 7).

Judy Lange rose in support of the bill.

Elizabeth Williams testified in support of the bill. She said she brought the case before the Supreme Court and is a survivor of child sexual abuse.

Susan Kraft Ball, a survivor of child sexual abuse, spoke in support of the bill.

Patricia Lukavsky asked to go on record in support of the bill.

Questions From Committee Members:

Senator Pinsoneault asked the Attorney General a question. He informed the committee that he was a member of the Youth Advisory Council during the interim that addressed this issue in particular the difficulty in prosecution. The question was if the AG's office would have someone specialized in that office to prosecute these types of cases to assist the county attorneys in these types of actions. Marc Racicot replied yes, and that prosecutors were available now. He said he wholeheartedly supported any help on the topic in order to provide better services.

Senator Pinsoneault pointed out that Mr. Sherwood hit on the crux of the problem: Rehabilitation. The success rate is very low, he said. He asked if there were situations where the offender would voluntarily submit to a surgical process to alleviate the problem, and if there were any states that had such laws. Marc Racicot replied that he did know of a chemical process, but did not know of other states' postures on this issue.

Senator Mazurek asked Mr. Racicot about Section 2, applicability, if there were references to offenses as opposed to causes of action. Mr. Racicot agreed.

Senator Harp asked Dr. Janet Allison concerning a close friend who was a victim of child abuse. He said he had spoken to Hank Burgess, the head of the Board of Pardons, who told him that the chances of sexual abusers being cured is very slim with 95% continuing in their habits. He asked how people who got out of prison are stopped from continuing to be offenders. He asked how the underlining generational issue could be solved. Dr. Allison said that no one had the answer yet. She said the work was going on very actively in terms of research and learning about the most effective methods of treatment. She said that cure is unlikely if not impossible so mental health counselors are working towards control of "the impulse" and continuous monitoring of the problem. She believes that offenders are able to learn to control themselves if they get intensive, long-term, appropriate treatment. She said that as more of these offenders are prosecuted, there will be less sexual abuse because those particular offenders will not be able to continue. And, she commented, the potential offenders will be more careful or seek help instead of getting into their impulses. The fewer that molest, the fewer there are in the next generation, she added.

Senator Beck asked Dr. Allison about whether a high school boy molesting a younger girl was a problem. Dr. Allison replied that yes, offenses by adolescent boys are quite common and have not been treated as seriously in the past because there is a tendency to look at that as a child's sex play. When talking about an older boy offending against a younger child, she said that is that is child sexual abuse. The Juvenile Justice system does address those issues and can help young offenders get into treatment. Recidivism is worse for people that begin offending when they are young because

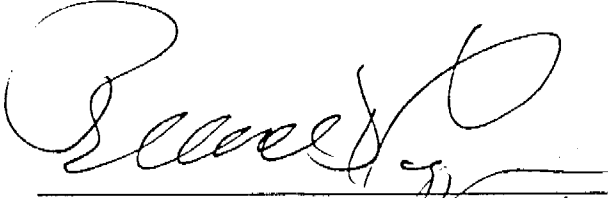
those patterns become ingrained very early. Because they are young, the possibility of changing those patterns is stronger, said Dr. Allison.

Closing by Sponsor:

Senator Nathe pointed out that the proponents had shown the need for this legislation. The cost to society in the terms of physical and also emotional damage and monetary cost is great. This is one step the legislature can take as a matter of public policy. Senator Nathe closed.

ADJOURNMENT

Adjournment At: 12 noon.



BRUCE CRIPPEN, Chairman

BC/rj

JUD119

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date Jan. 19

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

EXHIBIT NO. 2

DATE SB 122

DATE: 1/19/89
BILL NO. 809

NAME: Janet R. Allison, PhD

ADDRESS: 128 S. 6th W. - Missoula, MT 59801

PHONE: 543-8415

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SB 122

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: see attached 3 pgs

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Ex 2

S.B. 122

1/19/89

S.B. 122

I am Janet R. Allison, Ph.D., a licensed psychologist from Missoula. I am here to testify in favor of S.B. 122, based on my past decade of intensive work with child sexual abuse victims, offenders, families, and adult survivors. As you may know, in the past ten to fifteen years professionals and the general public have increasingly come to recognize the scope of this problem. Researchers have found that at least 25% to 33% of girls, and at least 10% to 20% of boys, are sexually abused by the time they reach adulthood. The effects on their lives are devastating.

The most critical factor in understanding the importance of this legislation rests in an understanding of the context in which sexual abuse occurs. In approximately 80% of child sexual abuse cases the offender is a family member or other trusted authority figure, upon whom the child victim depends for approval, love, and affection. As you listen to and read the testimony by survivors of sexual abuse, understand that although they have been advised (for their own legal and emotional protection) not to name their offenders specifically, they are talking about fathers, older siblings, uncles, grandparents, long-term family friends--the most intimate people in their childhood lives, the people who were crucial to their emotional and physical survival. The offender invariably sets up a secret relationship with the victim, with threats of violence or abandonment (of the victim and/or the family), with offers of special attention or favors, or with other forms of overt or subtle coercion. This trusted figure uses his position of power not only to ensure that the child goes along with the sexual abuse, but also to secure the child's silence and keeping of the secret.

Often the offender also persuades the child that the increasingly sexual contact is "normal" and good. Together with young children's inability to communicate clearly about sexual contact that they do not understand, this makes it extremely difficult, if not impossible, for victims to tell about the abuse. In addition, because child sexual abuse is usually accomplished by use of the offender's position of power (with bribes, enticement, persuasion, and threats) rather than by physical force, victims are led to believe that they consented to the abuse, and so are guilty. Children's natural developmental tendency to believe that they are the cause of the things that happen to them and their families adds to the sense of responsibility and makes disclosure even more difficult.

In the cases where child victims do overcome all these obstacles and disclose (usually to a family member) that sexual contact has occurred, all too often they are not

believed, or are blamed for the abuse, or nothing effective is done to stop the abuse. Very often the entire family is dependent upon the offender emotionally, physically, and/or financially. Thus, prosecution cannot occur, because it depends upon an adult taking action that, often, they feel unable or unwilling to take.

Until child victims reach the age of majority, then, there often is no possibility of prosecution because of the persistent secrecy, the child's inability, by virtue of being a child, to communicate or take action, and the dependence of victims and family upon the offender.

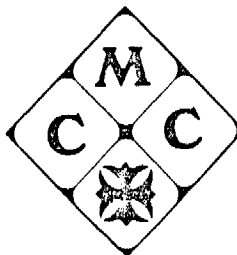
One concern that I have heard voiced about this bill is that it would increase the likelihood of false accusations of sexual abuse. This is not the case. My experience, as well as the developmental literature, indicates that young adults (ages 18 to 23) are still emotionally very attached to their families; although they may be angry at former caretakers, they would be extremely unlikely to initiate prosecution of such individuals, even if it was warranted. Also, concern about false accusations does not take into account the tremendous stigma, family and social disruption, and pain involved in going through even the initial stages of prosecution of a sexual crime, especially against a family member or friend. I don't believe I have ever dealt with a victim (child or adult), even in cases of successful prosecution, who did not seriously consider giving it up. Even if all this weren't true, our system has strong safeguards: because the burden of proof is on the accused, prosecutors will not attempt to prosecute if the evidence is not strong.

Researchers estimate that fewer than one percent of child sexual abuse cases ever are prosecuted; this bill would only increase that figure by some small increment. Again, young adults (ages 18 to 23) are very unlikely actually to initiate prosecution of their offenders. I have, however, dealt with numerous cases in which the young sexual abuse survivor finally felt able to disclose her experience of abuse in the first few years after moving out of the parental home, to the mother or another relative, to a close friend, or to a therapist. In the few cases in which the abuse had continued into late adolescence (so that the current statute of limitations had not run out), this allowed the possibility of a formal report being made and prosecution being initiated by the State.

It is important to understand that, even if an offender for some reason stops molesting a particular victim, he is extremely likely to continue finding and molesting other victims unless the legal system becomes involved. Molesters are almost always terribly defensive and unwilling to seek out and commit themselves to the long hard work of changing

their attitudes and behavior. Prosecution is the most effective (and often the only) tool to mandate the intensive, long-term psychological treatment necessary for offenders actually to change.

If child molesters continue to believe that they cannot be prosecuted for their sexual assaults (because their victims are too young and dependent on them), they have no incentive to resist their impulses to molest or to get help for those impulses. The current statute of limitations essentially gives a green light to potential molesters. S.B. 122 would have real deterrent value in that it sends a message that we as a society will hold offenders responsible for their crimes, even as their child victims become adults; that we will not allow them simply to go on indefinitely destroying children's lives.



Montana Catholic Conference

SENATE JUDICIARY

EXHIBIT NO. 3

DATE Jan. 19, 1989

GILL NO. SB 122

January 19, 1989

CHAIRMAN CRIPPEN AND THE SENATE JUDICIARY COMMITTEE

I am Megan Hill, representing the Montana Catholic Conference as the liason for the two Roman Catholic bishops of Montana in matters of public policy.

We support SB 122. Recent years have seen an alarming increase in the reported cases of sexual abuse of children. Sexual abuse in itself is a profound tragedy, but because of the lasting impact of such incidents on the victims, child abuse constitutes a direct threat to the future stability of society.

The current statute of limitations often expires while the abused child is still a minor and still under the domination of the abuser. Furthermore, many victims are too young to communicate about their abuse, or may even be unaware that such abuse is not normal. If SB 122 were approved, the burden of proof still rests with the abused person. SB 122 simply provides him or her with the opportunity to come to grips with the abuse and pursue their case legally.

We support SB 122 to extend the special rules to cases involving the sexual abuse of a child.



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530 N. EWING

HELENA, MONTANA 59624



EXHIBIT NO. 3, p. 2

DATE Jan. 19, 1989

DATE 1/19 BILL NO. SB 122

NAME: Megan Hill

ADDRESS: Box 1708 - Helena 59620

PHONE: 442-5761

REPRESENTING WHOM? Montana Catholic Conference

APPEARING ON WHICH PROPOSAL: SB 122

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Written Testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Toni Picklas

EXHIBIT NO. 4

DATE

Jan. 19, 1989

DATE NO.

1/19 SB 122

ADDRESS:

PHONE:

REPRESENTING WHOM?

MEA

APPEARING ON WHICH PROPOSAL:

SB 122

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

our concern lies w/ the fact that students are being
sexually abused while they are still in school, still living
under the authority of their offender. Discovery of what is actually
occurring may not take place until the child leaves this environment—
usually around 18 years of age. This bill allows time to be
on the victims side rather than on the offenders side. We
are in support of SB 122: action from the legislature is
necessary to provide real & effective remedies for victims of
childhood sexual abuse—Urges to Pass!

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BILL NO. 99 SB 122

Fay Dozier

DATE : _____

Box 405, Deadpoint, MT 59069

326-214-8

myself

SPB 122



OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

My name is Fay Dozier and I am a survivor of childhood sexual abuse. I was sexually molested from the time I was five years old until I ran away from home at the age of eighteen. I was also severely physically, emotionally and verbally abused. BIB NO. SB 132

My childhood was filled with constant fear and shame and pain. I felt dirty and responsible because of the sexual abuse. I grew up being told I was no good--a slut and a whore. I lived basically isolated emotionally from the rest of the world because of the "secret" I had to keep. My brothers and sisters were turned against me and I was alone. I knew, instinctively, that what was happening was wrong, but felt there was nowhere to turn for help. I grew up in a time when the family unit was sacred and no one wanted to get involved in "family matters".

I told my mother when I was 13, but I was severely beaten for telling. I tried to tell a friend when I was 15, but that cost me a friend. I told a male ^{family} member when I was 16 and was raped by him for my efforts.

Finally, when I was 18, I knew, legally, I could leave home and they couldn't force me to go back. I still had a year and a half of school to attend so I was placed in a foster home. ^{At age 18,} I tried to get my molester prosecuted because I knew he was molesting at least one of my four sisters, but the authorities didn't feel they could make a case on my word alone.

I spent from 18 to 30 years old living a self-destructive, emotionally disturbed life. I abused alcohol, was suicidal, was very promiscuous, had ~~two~~ failed marriages, two miscarriages, two abortions and I physically and emotionally abused my son.

I sought therapy off and on throughout those years, but the therapists weren't willing to credit my emotional and mental problems to the sexual abuse. Of course that was many years ago and this crime has only been "brought out of the closet" in the past ten years or so. As a result of their denial, I started believing I was crazy and a normal life was hopeless.

At age 30, I finally hit bottom and I was encouraged by my husband to try one more time to get help. I was able to find a therapist who treated adult, female sexual abuse victims. For the first time in my life I felt validated and not so terribly alone. My recovery was a long, painful and costly process.

I still feel the pain after all these years and I still bear scars of what was done to me and probably always will. I still struggle with depression and with liking myself and I find trusting people very difficult.

My four sisters were all sexually abused as well as a step-sister and my half sister, who was two years old at the time. Had society not been so ignorant regarding this devastating crime, perhaps these individuals wouldn't be suffering today--and they are suffering.

I feel if there had been stricter laws and better enforcement at the time I was molested, my abuser might have been stopped and many lives would not have been so destroyed. My abuser was finally prosecuted for molesting my step-sister, but received a slap on the wrist and is still running loose. If men like him knew there would be severe consequences for their actions, perhaps they would think twice before they violate an innocent child.

DATE Jan. 19, 1989

DATE: BILL NO 19 / 89 SR/2

PHONE: 721-0500

APPEARING ON WHICH PROPOSAL: 58/22

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

My name is Rosanne E. Davis. I am 36 years old and a resident of Missoula, Montana for the past five and a half years.

I am giving my testimony in support of the proposed bill which would extend the statute of limitations for victims of child sex crimes. I am doing so because I am a survivor of child sexual abuse who has had no remedy, and therefore no rights. Even if the proposed change is passed, it will not benefit me directly but my testimony is important in enabling other survivors, both men and women, to pursue redress.

Shortly after moving to Missoula in 1983 I began experiencing night terrors. I felt that someone or something was creeping around my bedroom and I was too paralyzed with fear to get up. I laid awake all night and slept when I could during the day. I entered counseling after several weeks of this.

During the initial interview, much to my surprise, my therapist asked if I had been sexually abused as a child. Until that point in time I believed that I had never told anyone what had happened to me. Thus my odyssey began. The majority of the following testimony is derived from memories gathered within the past five years.

I am the oldest of six children. I have two sisters, both of whom were also sexually abused, and three brothers, one of whom I suspect was abused sexually. From the outside, I imagine that we looked like the all-American family. My mother was a homemaker until my parent's separation and subsequent divorce. My father, the abuser, worked as an electronics engineer and was President of the Jaycees. We were practicing Episcopalians.

The earliest memory that I had of being sexually abused occurred when I was five or six years old. This involved sexual intercourse by my abuser. Incidents of sexual abuse repeatedly occurred until I was twelve years old ranging from sexual fondling to intercourse.

I did not know until 1984, at the age of 32, that the sexual abuse began before I was three years old. This knowledge had a profound affect on me. As a child I reasoned that the abuses I had experienced occurred because I was a bad child who deserved to be punished. As a teenager, I had been led to believe that I had seduced my abuser, as a five year old. I owned the responsibility for what had happened to me; I thought it was my fault. Not only did I carry that shame and guilt for over twenty years, I actively hid in fear that someone would find out what a truly evil person I was.

I was not only abused sexually. I was also verbally, physically and psychologically abused. I was told before the age of ten that I was a "slut". I was told that I was nothing; that my abuser had created me and that I was a "slave". I suffered severe beatings with belts, sticks, ping pong paddles; and was thrown, shoved, slapped, kicked and hit with a fist.

As a child, I believed that other families were like ours. Not until I was approximately nine years old did I suspect that something was wrong when my abuser began threatening me with death should I ever tell anyone what he was doing.

I had no reason to doubt the sincerity of my abuser's threats. I believe that he could, at any moment, choose to kill

me. He forced my sisters and I to witness the death of our kittens by stoning them. He strangled the neighbor's cat. He beat our dog to death. I refused pets fearing that my abuser would kill them as well. I was pulled into deep water at a lake and while my abuser sexually assaulted me, he held me at chin level in the water and told me that if I made a sound, he would drown me. He kept a gun in the house that had a silencer which he would screw on and sitting by the open back door, shot anything that trespassed our property.

Within an eleven year period, our family moved a minimum of six times. We had telephones in our home until my abuser ripped the last one from the wall when my mother attempted to call for help. He broke her wrist. My mother did not own a driver's license or know how to drive a car until she was almost forty years old. I am convinced that my abuser purposefully chose to isolate the family.

He decided with whom I could be friends and at a moments notice would tell me that I couldn't play or talk to someone ever again. And I did not. In fact, I stopped making friends with other children because I could not stand the pain of losing them. I could not count on anything; love became equated with violence. I spent most of my childhood alone, hoping that someone would see what was happening and rescue me. No one ever did, although I learned later that people were aware of the violence in our household.

My abuser was omnipotent. I lived in constant fear, trying to anticipate his moods in order to avoid another abusive event. Prior to my twelfth birthday I had decided that when the next episode of abuse happened that I was going to shoot my abuser with his own gun. I couldn't see any other way to make it stop.

My abuser was removed from our household in 1964 after he sexually molested an eleven year old friend of my sister. He was sent to prison and my family moved out of state. My mother was thirty-two years old and had six children ranging in age from twelve to two. We lived with the fear that my abuser might find us.

As a teenager I lived in extreme poverty and began working when I was thirteen. I spent most of my time on the streets, started drinking at the age of fifteen, attempted suicide at sixteen and was pregnant by seventeen. I married and left home at eighteen. Two children and five years later I was divorced. I raised my children alone for fourteen years and remain single.

The only discussion (prior to therapy) concerning the sexual abuses I experienced as a child, was with my mother when I was approximately fourteen. I simply told her that it had happened and did not go into any detail; I wanted to protect her. At that time my mother denied knowledge of the sexual abuse. I was told that good people "forgive and forget". Our family remained one in which we did not discuss those early years; if we didn't talk about it, it didn't happen. I spent the rest of my life forgetting which I was able to do until the night terrors began.

I have since learned that my mother did know about the sexual abuse because I had told her when I was three years old. She has stated that I sought protection from her on several

occasions. I have no memory of these events.

Given the fact that society did not recognize child sexual abuse or battered women, nor did it provide protection to victims of abuse, my mother did not possess any alternatives to protect either herself or her children. Child protective services or a welfare system did not exist. Teachers, school counselors and other professionals were not trained to identify children such as myself. No one talked about the sexual abuse of children or that it even existed until the past five years. The general public is still uncomfortable in admitting that child sexual abuse exists.

My abuser was both verbally and physically abusive to my mother. She attempted to have my abuser committed at one point, only to be told that he would be given thirty days written notice. Knowing that we would most likely be dead before the thirty days was up, my mother dropped the case. She went to our minister for help who told her that she should try harder to make the marriage work. She managed to get my abuser to leave the family several times before I was eight years old only to have him return with promises that it would never happen again. My mother could not tell her family. Both of my parent's had been abused as children. In the finish, she resigned herself to the circumstances in her life.

I did not bring forth criminal charges within the current statute of limitations because I was incapable of doing so as a sixteen year old. Provided that my entire family had been traumatized by my abuser, it is unthinkable that I would have been supported in filing criminal charges while I remained in the family and the option to do so did not exist for me once I did leave. Indeed, my family of origin continues to maintain a conspiracy of silence and denial, of shame and guilt.

In summary, my abuser has to my knowledge, a nine year history of sexual crimes involving four children. I have no doubt that there are and continue to be other victims. My ability to file criminal charges against my abuser would have perhaps prevented the further sexual abuse of other children. More importantly, it would have enabled me to continue in my life without carrying the responsibility and burden for my own victimization.

DATE Jan. 19, 1989BILL NO. DATE: 1-19-89 SB 12.NAME: Mike SherwoodADDRESS: MissoulaPHONE: 443-6292REPRESENTING WHOM? MTLAAPPEARING ON WHICH PROPOSAL: SB 122DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

1) I am a former Public Defender frequently appointed as guardian for sexually abused children and those accused of sexual abuse.

2) Reporting, in my experience, seldom occurs before the age of 12 and usually after 14

3) Recidivism is a problem in this area + one which can be cured with counselling

4) ~~For~~ Usually denial is a severe problem and threat of criminal prosecution is highly effective as a tool to insure counselling necessary to end this conduct.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Kukavsky
Bane

EXHIBIT NO. 8
DATE Jan. 19, 1989
BILL NO. SB122

SB 122 - Revised Criminal Statute of Limitations for Child Sexual Abuse

My name is Patricia, I do not feel like I can use my full name because I still fear for the safety of my family and myself. However, as a 28 year old incest survivor, I feel my testimony will aid you in your decision on the legislation now before you. In the interest of being brief, I will attempt to outline my experiences.

In the process of recalling details regarding the sexual abuse, in order to write this testimony, I've experienced renewed pain, terror, grief, and depression. I was sexually abused as a minor by 6 different perpetrators: an unknown perpetrator, my father, three brothers, and my bother-in-law. My age and the duration of each episode are as follows: before 3, at 5, 9-12, two different abusers at 15, and at 16-17 years old. The different forms of sexual abuse I experienced included: forced fondling, groping, attempted rape, rape, getting urinated on, and forced oral sex. I was raised in a dysfunctional family where alcohol abuse was prominent. Secrecy about the family was maintained by constant verbal abuse and physical violence by both parents and all siblings. The unspoken rules of the family were don't trust, don't feel, and above all don't tell. I felt if I didn't obey these rules it would destroy the family and I could be killed. That is why my first 5 abusers knew they didn't need to make specific threats. The last abuser, my brother-in-law, did threaten me with death if I told. My reactions to the sexual abuse were to fight it, avoid it, submit to it, and withdraw from it in order to survive. My perpetrators used coercion, trickery, and entrapment to force me to submit, and once trapped I felt terrified and helpless. As a teenager I confided in 4 different adults about the sexual abuse. My priest punished me with penance, my half-sister blamed me, my mother

minimized it, and my brother-in-law took advantage of the information and trust to begin sexually abusing me. Telling produced negative feedback that reinforced feelings of helplessness and responsibility that I tried to escape with alcohol and substance abuse. During the last period of sexual abuse at age 17, I began a long period of sexual promiscuity. I felt powerless against any male advances and felt I didn't have any other choice. I left home when I turned 18 in an attempt to break family ties and lead a "normal" life. Shortly after, in need of acceptance and love, I married a man who continued to victimize me with sexual abuses until we divorced when I was 22. During this marriage I depended heavily on reaffirmation from my family which continued until a year ago when I indirectly confronted them about the sexual abuses. They denied it, threatened me, and abruptly cut off all communication with me.

I entered my current relationship when I was 22. The repercussions of my abuse began overwhelming me at the age of 25 when I began physically abusing my husband and children. In an attempt to find out why and correct it before I lost my husband and children I entered counseling and eventually an incest survivors' group. I have been in counseling ever since and have gradually discovered the connection between the repercussions I have experienced, and have to deal with the rest of my life, and my abuse. I feel the following repercussions are the direct result of the combined abuses I experienced as a child: severe depressions, suicidal attempts, tendencies, and other self-destructive behaviors, alienation from peers, spouse, children, and society in general, anxiety, insomnia, inability to make decisions for myself, mistrust and fear of people, confusion, eating disorders, and a loss of personal identity. Even though they could also have been produced by the different forms of abuse individually, I feel the sexual abuse in particular intensified the repercussions dramatically.

The repercussions I feel are due solely to the sexual abuses, and which especially affect my marriage are: sexual promiscuity, flashbacks to the abuses, nightmares of sexual abuse, confusion about sexuality, and shame of and disconnection from my body.

Out of all six abusers, one has acknowledged the abuse on me and has reformed, one is currently serving a prison term due to molestation of another child, another one has molested at least one other child that I know of since me, and the others I suspect are still sexually abusing children. I strongly feel that if the criminal statute of limitations were to begin at the age of majority it would cut down on sexual abuse. Others in similar situations to mine who are more successful in separating themselves from their dysfunctional family might have a chance to seek out help sooner because of increased awareness and support. Because I was not aware of or in a position to act on the existence of such a law I feel 3 of my perpetrators are still abusing but one is in prison because one child was lucky enough to tell the right adult.

NAME: Ron Silvers DATE: 1-19-89ADDRESS: 512 Logan N. H. H.PHONE: 442-0649REPRESENTING WHOM? Equal Access Treatment ProgramAPPEARING ON WHICH PROPOSAL: # 122DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Janet Benson DATE: 1-19-89ADDRESS: 512 Logan, HelenaPHONE: 442-0649REPRESENTING WHOM? MT Assoc. of Social WorkersAPPEARING ON WHICH PROPOSAL: SB 122DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MISSOULA COUNTY

Did not testify

1/19/89

OFFICE OF THE ATTORNEY
MISSOULA COUNTY COURTHOUSE
MISSOULA, MONTANA 59802
TELEPHONE (406) 721-5700

ROBERT L. DESCHAMPS III
COUNTY ATTORNEY

January 18, 1989

SENATE JUDICIARY COMMITTEE
State Capitol
Helena, Montana 59601

Re: Senate Bill No. 122

Dear Committee Members:

The Montana County Attorney's Association has authorized me to inform the committee that the Association supports the concept of expanding the statute of limitations for prosecutions of child sexual abuse. The current law carries the typical five (5) year statute of limitations, which is plainly unrealistic in cases of sexual abuse upon young children. It is not feasible to expect a three (3) year-old abuse victim to report the abuse by the time he's eight (8) or else the State loses any ability to ever prosecute the acts thereafter. We would not object to an amendment that started the statute running when the act of abuse becomes known to a public agency authorized by law to take legal action on it, or the victim's eighteenth (18) birthday, whichever occurs first.

If our Association can be of further assistance, please contact me.

Sincerely,

Robert L. Deschamps III
Robert L. Deschamps, III
Missoula County Attorney

RLD:ksr

Kim Darling
626 N. Caravan
Missoula, MT 59802
January 18, 1989

URGENT DELIVERY TO
Senate Judiciary
Committee

1/19/89
10:00 am
TH

TESTIMONY FOR THE LEGISLATIVE RECORD RELATIVE TO SENATE BILL 122

I am an incest survivor. I discovered this when I was twenty-nine years old. Prior to this discovery, I suffered suicidal depression for ten years. I was disabled by an eating disorder and drug addictions. I began seeing therapists when I was twenty-eight because of difficulties in my marriage. Although the therapy was helpful, I had a sense that I had still not gotten to the source of my difficulties. Then, while participating in a workshop on incest as part of training to work in a crisis intervention network, I encountered a list of characteristics of incest survivors. Every item on the list applied to me. The next day, during the course of personal sharing in the workshop, I began to remember specific incidents of sexual abuse in my childhood. The process of remembering continues for me even now.

Since the time of the initial discovery, I have completed a BA in Social Work and am working in the recovery process with other survivors. This recovery process requires letting go of feelings of responsibility for what happened to us as children. It requires moving through intense feelings of anger, fear, grief and shame. This recovery process begins after we break through the very thing that helped us to survive, that is, denial. Again and again I have seen women accomplish this in their late twenties and early thirties. It is unrealistic to expect survivors to be willing or able to confront their abusers while they are still dependent, physically, emotionally, and economically on the familial system in which the abuse occurred. In young adulthood, the denial that allows for survival is still functional.

I confronted the man who abused me about that abuse three years after I began to remember it. He laughed at me. He denies still, as he did then, that what he did to me was injurious. He is supported in his denial by a cultural denial of the existence and extent of injury done by the sexual abuse of children.

I urge you to pass this bill before you. It is a significant step in breaking through cultural denial of the effects of childhood sexual abuse.

1/19/89

1/17/89

To Whom it May Concern,

I was molested as a child. In 1965 at the age of four I did not have the power to tell of my abuse. I blocked it from my memory.

Seven years later when I remembered, it was too late for me to take legal action. There was no intervention or advocacy for me and I suffered in silence for many years.

To this day I am without legal means or rights to sue my assailant. My rights were gone before I was ever advised of them. I have spent thousands of dollars on my recovery. As a Medicaid patient the taxpayers have spent for my recovery.

If the Statute of Limitations had been extended before my twenty third birthday, I would have been able to seek restitution.

SB 122

11/19/89

It is absolutely imperative for the millions of sexually abused children to have a voice.

Our society is morally obligated to listen to their voices and we are morally obligated to take action against abuse. We must allow our children to have the power to say no.

As the parent of a sexually abused child and as a survivor of sexual abuse, I'm telling you it is hellish torture and I strongly urge you to extend the statute of limitations.

Thank you,

Ken Haff

58 122

11/19/89

1/17/89

To Whom it may Concern,

" I think we should change this law because if people get molested and dont tell within seven years then they dont get to get it off their chest and tell by suing the person who molested them. "

" If I myself didnt report it in seven years I would feel really bad cause I hadn't gotten it off my chest.

If I hadn't told, that person would still be molesting children and I feel very strongly about children's rights. I think this law will encourage children to tell their problems. That's why I think we should change this law. "

Violet Hopkins

Age 9

58 122
1/19/89

TWO BILLS WOULD EXTEND STATUTE OF LIMITATIONS FOR
CASES INVOLVING SEXUAL ABUSE OF CHILDREN

Sexual abuse of children is a problem of immense proportion in the United States today. Only in the last decade have we learned very much about it. Experts now estimate that the average age of a victim of childhood sexual abuse is 8 years; victims' ages range from birth to age 18.(1) The abusers are usually family members, friends and neighbors.(2) It is estimated that anywhere from 50 to 90% of all sexual abuse of children goes unreported.(3) The vast majority of investigated reports prove valid.(4) And yet one expert has estimated the criminal conviction rate for childhood sexual abuse at 1% of all cases.(5) Civil judgments are imposed against abusers probably less often than that.

The most formidable procedural barrier to the prosecution of civil or criminal cases against child abusers is the application of general statutes of limitations rules to a situation that requires special consideration and special rules.(6) In most circumstances, statutes of limitations begin to run on the date a wrongful or criminal act is committed. In instances where injured parties may not know of their injuries or the cause of their injuries until after the statute of limitations period has expired, special rules exist to extend the time for bringing civil and criminal cases. The enclosed two bills ask the Legislature to extend those special rules to cases involving sex abuse of a child.

The Civil Statute of Limitations Bill

The civil bill proposes adding child sexual abuse cases to the list of exceptions to the general statute of limitations already recognized by Section 27-2-102 MCA. These exceptions are known as the "discovery rule" exceptions, recognized by the Legislature as circumstances where injustice would result if general statute of limitations rules applied.

A bill nearly identical to the enclosed civil statute of limitations bill was enacted in the State of Washington in March 1988. The Washington bill was introduced in response to a ruling by the Washington Supreme Court concluding that the legislature holds the prerogative to extend the statute of limitations in cases of child sexual abuse. Just recently, in May 1988, the Montana Supreme Court ruled on the same question and reached the same conclusion. In the case of E. and D.W. vs. D.C.H.(7) the Court said:

While this Court is aware of the horrifying damage inflicted by child molesters, it is not for us...to accommodate such claims through judicial fiat. Such a task is properly vested in the legislature.

The proposed extension of the civil statute of limitations asks the Montana Legislature to acknowledge its prerogative in this area and adopt legislation comparable to the Washington law.

The reason for the discovery rule is most readily understood through study of the classic case of the patient who does not know of the presence of a surgical sponge left in his body until the usual statute of limitations period has expired. The discovery rule delays running of the statute of

limitations until he discovers the existence of the sponge and therefore the underlying claim for damages.

Like the surgical sponge cases, the circumstances surrounding childhood sexual abuse cases make them different from the usual civil case. The difference has to do with the devastating and lasting effect sexual abuse has on a young child's mind. A central element of childhood sexual abuse is secrecy: abuse happens when the child is alone with the abuser and physical violence or the threat of violence, threats of harm to siblings or mother, the threat of abandonment or separation, and other psychologically coercive tactics used by the abuser result in the child becoming virtually incapable of disclosing the abuse.(8)

Experts conclude that if the child does not seek or receive immediate intervention and protection, the child's only option is accommodation to the reality of continuing sexual abuse. The child faced with continuing abuse somehow must achieve a sense of control. He or she cannot safely conceptualize a parent as bad because to do so is tantamount to abandonment. Instead the child adopts an "accommodation syndrome", internalizing his rage, fear, confusion and sadness.

This internalization of anger and anxiety is a survival mechanism that often leads to self-destructive behaviors such as suicide, depression, prostitution, or drug and alcohol addiction. In the past ten years, experts have discovered that sexually abused children predictably suffer from a constellation of these problems. Almost universally, the young

adult suffering from such injuries is unaware that her problems result from the abuse of her past, until learning the connection from a mental health expert. Moreover, many of the most severe physical and emotional problems resulting from abuse simply do not develop until after the general limitations period has expired.

The special circumstances peculiar to injury of a child warrant special treatment of sex abuse cases. For this reason, the 1987 Surgeon General's Northwest Conference on Interpersonal Violence specifically recommended application of the discovery rule to childhood sexual abuse cases.

Even with passage of this legislation, it should be emphasized that such plaintiffs are not guaranteed success. The burden remains with an adult who claims to have been sexually abused as a child to prove not only that she was abused and that the defendant was her abuser, but that her suffering was such that she did not and could not reasonably have discovered all the elements of her cause of action at an earlier time. This bill simply allows an opportunity for a survivor to make that case.

The Criminal Statute of Limitations Bill

The companion criminal statute of limitations bill modifies the already existing special limitations rule for sexual offenses against children. The modification delays running of the statute of limitations until the child victim reaches the age of majority, 18 years.

Under existing rules, the criminal statute of limitations for all sexual crimes against children is set at five years.

Unfortunately, under this rule, the limitations period expires while many victims are still under age, often still residing in the home of the offender and still very much subject to his domination and control. The fact is that physical violence or coercive tactics used by the adult result in the child becoming virtually incapable of disclosing the abuse within the period of limitations. Moreover, many victims are simply too young to be able to communicate effectively about the abuse, or may be unaware that the behavior is anything unusual or inappropriate.(9) In any event, research finds that children who do break this silence to tell another member of the family rarely find themselves believed.(10)

Existing Montana criminal statutes of limitations acknowledge that the special circumstances of secrecy present in cases of bank fraud and computer crimes warrant extending limitation rules. The Montana Legislature is asked through this bill to act in its role as establisher of statutes of limitations to acknowledge the special circumstances of child sexual abuse as well.

Conclusion

Holding victims of childhood sexual abuse to traditional statute of limitations rules effectively denies judicial remedy for this wrong. Legislative action is essential to provide genuine, meaningful legal remedy for child sexual abuse. With passage of this legislation, we can look forward to the deterrent effect that comes from a clear societal message that this conduct is unacceptable to a civilized people.

Notes

1. See, M. Kirkpatrick, ed., Women's Sexual Experience 133 (1982).
2. D. Finkelhor, Sexually Victimized Children 73-75 (1979).
3. S. Butler, Conspiracy of Silence: The Trauma of Incest 12-13 (1978).
4. R. Summit, The Child Sexual Abuse Accomodation Syndrome, 7 Child Abuse & Neglect 177, 178 (1983).
5. D. Russell, The Secret Trauma 86 (1986).
6. See M. Salten, Statutes of Limitation in Civil Incest Suits: Preserving the Victim's Remedy, 7 Harv. Women's L.J. 189, 190 (184); see also Comment, Tort Remedies for Incestuous Abuse, 13 Golden Gate U. L. Rev. 609, 628-31 (1983).
7. 754 P.2d 817 (1988).
8. M. de Young, The Sexual Victimization of Children 41 (1982).
9. K. MacFarlane & J. Waterman, Sexual Abuse of Young Children 5 (1986).
10. M. Kirkpatrick, supra at 128-129.

COMMITTEE ON

JANUARY

DATE

Jan. 19, 1989

Judiciary

VISITORS' REGISTER

NAME (PLEASE PRINT)	REPRESENTING	BILL #	Check One	
			Support	Oppose
Patricia (Lukavsky) Boncz	self	122	✓	
Elizabeth K. Williams	Self	122	✓	
Cheryl Cogan	PA and CTF	122	✓	
Judy C. Lange	self	122	✓	
Susan Kraft Ball	self	122	✓	
Toni Niklas	MTA	122	✓	
Fay Dozier	self	122	✓	
MARC RACLOT	AG	122	✓	
Sally Mueller	self	122	✓	
Holly Kalyne	OPI	122		
Bob Pyfer	Mont. Credit Unions League	135	✓	
John Madsen	Dept of Family Services	122	✓	
Jeanne Kennedy	Parents and Friends of MT.	122	✓	
Janet Benson	MT Assoc. of Soc. Workers	122	✓	
Ron Silvers	Sexual Assault T.P.	122	✓	
Brenda Nordlund	MT & Lobby Helena	122	✓	
Judith Carson	MT Assoc of Soc. Workers	122	✓	
Steve Walden	Mont. Child Mental Health Center	122	✓	
Ralph Kereken	A.M.	135	✓	
Mike Sherwood	MTLA			
Mike Sherwood	Individual	122	X	
LICKIE AMUNDSON	INDIVIDUAL	122	X	
Carol McKinnon	Mont. Comm. for the Handicapped	122	✓	

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce D. Crippen, on January 20, 1989, at 10:00 a.m. in Room 325 of the Capitol.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Senators Tom Beck, Mike Halligan, Bob Brown, Joe Mazurek, Loren Jenkins, R. J. "Dick" Pinsoneault, John Harp, Bill Yellowtail.

Members Excused: None

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: None.

HEARING ON SENATE BILL 102

Presentation and Opening Statement by Sponsor: Senator R. J. "Dick" Pinsoneault of St. Ignatius, representing District #27, opened the hearing with the statement that he would like the bill to be held in committee, but that since the hearing had been scheduled he felt it should be conducted. He said the bill prohibits rental car companies from holding renters liable for damages to rental cars. He said the bill resulted from car rental contracts and the waiver in the contracts, which caused people up to \$12 a day for insurance on rental cars.

List of Testifying Proponents and What Group they Represent:

Kathy Irigoin, State Auditors Office Insurance
Department
Jacqueline Terrell, American Insurance Association

SENATE BILL 108

Discussion of the bill included comments that the people from Great Falls wanting to add the option of hanging for persons to be executed and the fact that preparations for conducting a hanging took longer than for lethal injections.

Ms. Kradolfer said the bill provides that a person must make a choice of type of execution. Senator Crippen said he had a problem with the defendant having to make that choice at the time of his sentencing because it was an emotional time, and felt he should be given some time to make the decision.

Senator Beck asked if the judge decided when the sentencing would take place. Ms. Kradolfer said there was a statutory limit of 60 days for review. She said the department was happy with the bill as drafted.

Senator Pinsoneault MOVED that SENATE BILL 108 DO PASS. The MOTION CARRIED by a vote of 8 to 2, with Senators Beck and Crippen VOTING NO.

SENATE BILL 135

Senator Halligan MOVED that SENATE BILL 135 DO PASS. The MOTION CARRIED by a vote of 8 to 2, with Senators Mazurek and Crippen VOTING NO.

SENATE BILL 122

Senator Harp MOVED the Mazurek Amendments (Exhibit 8) presented to the committee at a previous meeting. Valencia explained them. The MOTION CARRIED UNANIMOUSLY.

Senator Harp MOVED that Senate Bill 122 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

SENATE BILL 106

Senator Halligan MOVED that Senate Bill 106 DO PASS. The MOTION CARRIED UNANIMOUSLY.

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date Jan. 20, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 20, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 122 (first reading copy -- white), respectfully report that SB 122 be amended and as so amended do pass:

1. Page 2, line 7.

Following: "to"

Strike: "causes of action arising"

Insert: "offenses occurring"

AND AS SO AMENDED DO PASS

Signed Bruce D. Crippen
Bruce D. Crippen/Chairman

y.c. 189
11/20/89
4:14 PM

SENATE JUDICIARY
EXHIBIT NO. 8
DATE 1-20-89
BILL NO. SB 12

Amendments to Senate Bill No. 122
First Reading Copy (White)

Requested by Senator Mazurek
For the Committee on Judiciary

Prepared by Valencia Lane
January 20, 1989

1. Page 3, line 7.
Following: "to"
Strike: "causes of action arising"
Insert: "offenses occurring"

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 1-20-89 Senate Bill No. 122 Time 4

NAME	YES	NO
SEN. BISHOP		
SEN. BECK		
SEN. BROWN		
SEN. HALLIGAN		
SEN. HARP		
SEN. JENKINS		
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL		
SEN. CRIPPEN		

UNAN.

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Harp Moved Amend. (Mazurek's
" " D P A - UNAN.

STATUS SHEET

51 LEGISLATIVE SESSION

JUDICIARY

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB 84	2-21	3-3	3-7							3-7	
SB 103	2-21	2-28	TABLED ON 2-28								
SB 105	2-21	3-9	3-14							3-14	
SB 106	2-21	3-14	3-14							3-14	
SB 107	2-21	3-14	3-14							3-14	
SB 108	2-21	3-14	3-14							3-14	
SB 113	2-21	3-13	3-13							3-13	
SB 120	2-21	3-3	3-3					3-3			
* SB 122	2-21	3-6	3-6							3-6	
SB 131	2-21	3-8	3-8					3-8			
SB 135	2-21	3-3	3-3					3-3			
SB 140	2-21	2-28	2-28							2-28	
SB 145	2-21	3-10	3-10					3-10			
SB 157	2-21	3-6	3-6					3-6			

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Brown, on March 6, 1989, at 9:05 a.m.

ROLL CALL

Members Present: All

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: None.

HEARING ON SENATE BILL 122

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe, District 10, stated this bill amends the criminal statute concerning sexual abuse of children. Under current law the statute of limitations starts running five years after the last offense. This causes a problem for anyone, especially a child who is in a family situation where the last offense occurs while still a minor and are still financially and physically dependent on that family unit. This bill would change the statute of limitation to start at the age of eighteen and run until the age of twenty-three give those children a chance to leave that family unit and become emotionally, financially and physically independent and more time to mature to understand what has happened to them. There is one amendment requested to the bill which will be explained by Jean Kemmis (EXHIBIT 1).

Testifying Proponents and Who They Represent:

Jean Kemmis, Attorney, Director of Parents Anonymous
John Connor, County Prosecutors Services Bureau and the Attorney General, Marc Racicot
Lewis Pepples, self
Janet Allison, Montana Psychology Association, self
John Madsen, Department of Family Services
Christie Marron, Montana Council Mental Health Centers
Janet Benson, Montana Association of Social Workers
Carol McKerrow, Montana Commission for the Prevention of Child Abuse

Megan Hill, Montana Catholic Conference
Toni Nikolas, Montana Education Association
Rosanne Davis, self
Marti Adrien
Brenda Nordlund, Women's Lobbyist Fund
Elizabeth Williams, self
Rep. Dave Brown
Rep. Bill Strizich
Holly Kaleczyc, Superintendent of Public Instruction, Nancy
Keenan

Proponent Testimony:

Jean Kemmis stated that this bill amends Sec. 45-1-205 to create a special statute of limitations for prosecution of sex crimes against children. In a recent case a woman filed suit against a member of her family for sexually abusing her from the time she was five until she was twelve years old. Last May the Montana Supreme Court ruled that "While this court is aware of the horrifying damage inflicted by child molesters, it is not for us to rewrite the statute of limitations to accommodate such claims through judicial fiat. Such a task is properly vested in the Legislature." All of those interested in prevention of child abuse have taken up the Supreme Court directive in this area and have brought before the Legislature two bills to amend the statute of limitations in these cases. The one bill, SB 157, involves the civil statute of limitations and the bill now before the committee involves the criminal statute of limitations. Both bills passed the Senate with full approval save one vote. There is a five year statute of limitations in these cases but has minimal effect because it only changes the statute of limitations in the two cases of misdemeanor sexual assault and indecent exposure. The statute of limitations for felonies is already five years so there is little special effect from that provision. The present statute of limitations begins to run at the time of the offense and runs for five years. This is workable when the abuser is a stranger to the child, the child comes home to family and friends and finds protection there. The rule is not workable where the abuser is a parent, a stepparent or any other relative of the child. In these cases, typically, the adult has frightened the child into secrecy with threats of harm to the child, another family member, or threats of abandonment; however, the secrecy that has been imposed means that the offense is not reported within the statute of limitations. SB 122 recognizes the special circumstances of secrecy involved with these cases and tolls the statute of limitations for five years after the age of 18. Presumably, at that age the child has moved outside the home and is outside the influence of the abuser and can come forward. After the bill left the Senate they realized the applicability section was not saying what they hoped it would say. As it stands the bill applies to all offenses committed after the effective date of the bill. This

amendment means that if the statute of limitations is now running, constitutionally the legislature is able to extend it to the period after age 18. There is no constitutional limit on the legislature's prerogative in setting limitations in either criminal or civil cases as they are measures of public policy and have been considered acts of grace by the legislature. The proposed amendment to the criminal statute conforms it to what is in the civil area already. Montana has a number of other areas where there are special rules - homicide, where there is no statute of limitations, fiduciary theft and unlawful use of computers - these things happen in secrecy. Crimes involving the sexual abuse of children contain both the elements - the abhorrent nature of the crime and the secrecy, and the children deserve at least as much consideration as the economic crimes of fiduciary theft and computer violations. A 1987 summary of state laws found that during the three year period 1984 to 1986, 17 states extended their statute of limitations. This bill would strip away the unfair protection that is now given to child molesters and force these people to face the child when the child is mature and capable of speaking out. The preventative effect that would come is a clear message that this kind of behavior won't be tolerated.

John Connor stated that the county prosecutors services prosecuted seven child sexual abuse cases in various parts of the state last year. It is a crime that requires the victim to carry the emotional consequences around like baggage for the rest of his or her life. This kind of legislation only presents a placebo to the real problem but is necessary to treat the problem while trying to solve it. By extending this term of prosecution it will be difficult for prosecutors to come up with an effective case, but as it stands, the statute forestalls the possibility of prosecution where it is appropriate. Even though the prosecutor may be faced with some difficult choices, they will at least be able to prosecute in cases where they have enough proof rather than telling them that the statute of limitations has expired. It is fairly clear that sex offenders are not cured but contained. If he is not cured or contained then he is there to re-offend. Prosecution may force some control over their actions through subsequent court judgments.

Lewis Pepples stated that last summer his five year old daughter was sexually abused. The man that did it is the grandfather of her best friend and the only person that she could talk to was his wife. She told him a little but not enough to help. They have been to the county attorney, counselors, psychologists, and the sheriff and nobody can help unless she will talk to them. The man is still walking free. The statute must be extended so when she realizes what happened to her when she was five years old she has the opportunity to face this man in a court of law (EXHIBIT 2).

Janet Allison stood in support of SB 122 (EXHIBIT 3).

John Madsen said the Department of Family Services has seen a substantial increase in the number of victims of sexual abuse - from 50 substantiated cases in 1981 to 600 identified in 1988. National studies indicate that only about 1 in ten victims are identified by the system - that would mean as many as 6,000 victims in Montana last year. Many of them must be placed out of their homes. Cost of care ranges from \$280 per month for a child in a foster home to \$600 to \$700 per day for a psychiatric hospital for treatment of suicidal behavior directly attributable to her victimization. Mountain View School has 50 girls in residence and eighty percent of the girls there today are victims of child sexual abuse. Many of their delinquent behaviors are directly attributable to their sexual victimization. Pine Hills School currently is treating 40 sex offenders. The great majority (probably all) are victims of child sexual abuse themselves. The cost of treating those boys and their victims is substantial. Currently at Montana State Prison, one-fifth of the population or 220 men are sex offenders and the great majority of those men were victims themselves. Many of the women at Montana State Correctional Facility are victims of child sexual abuse. Women's current problems are directly attributable to their victimization as children. The cost of dealing with these victims is staggering - millions of dollars that affect the state budget every year. An educator (until early January) had victimized at least five different girls. They are suspicious that there are 25 to 30 more. He has been an educator for fifteen years. The girls did come forward but after the statute of limitations had run out. The county attorney could not prosecute. The man is no longer an educator but he will continue to have access to his victims through coaching and through other situations. He actively seeks victims and will continue to victimize until they can find a victim that falls within the statute of limitations. We need a bill like this.

Christie Marron stated that her organization wholeheartedly support SB 122 to protect the victims of child sexual abuse. Enabling victims to bring suit against their abusers as adults will help stop a vicious cycle which often occurs when these abusers sexually abuse child after child.

Janet Benson concurred with previous testimony. It is very important for survivors to be able to face their perpetrators or to bring charges if they choose. It is not doing perpetrators any good by allowing them to continue their behavior and adds to their base of shame. That shame is part of the cycle of molesting as are denial and defensiveness are part of the cycle too.

Carol McKerrow stood in support of the bill and urged the committee to give it favorable consideration.

Megan Hill urged the committee to support SB 122 (EXHIBIT 4).

Toni Nikolas stated that their concern is with the children and believe that this bill and SB 157 puts time on the side of kids and urged concurrence.

Rosanne Davis stood in support of SB 122 (EXHIBIT 5).

Marti Adrien stood in support of this legislation and submitted letters of support listed as EXHIBITS 6 through 15.

Brenda Nordlund urged passage of this bill.

Susan Kraft Ball stood in support of this bill.

Elizabeth Williams urged support for this bill.

Holly Kaleczyc stated that the horrifying fact is that there are abusers in the schools and there have been instances that are on-going and there is a need for a vehicle to get them out.

Rep. Dave Brown stood in support of this bill.

Rep. Bill Strizich urged passage.

Testifying Opponents and Who They Represent: None.

Opponent Testimony: None.

Questions From Committee Members: None.

Closing by Sponsor: Sen. Nathe stated that one of the proponents summed it up very well and that is to give the children "time" and that is what this bill is all about. Another important aspect of this bill is that 98% of the children in the Yellowstone Treatment Center are there because of sexual abuse and it is their determination that 99% of the offenders were themselves offended as children. We have to offer these children legal redress and this gives them more access to that system and indirectly it may change this vicious cycle that perpetuates these horrendous crimes.

DISPOSITION OF SENATE BILL 122

Motion: Rep. Darko moved SB 122 BE CONCURRED IN. Seconded by Rep. Stickney.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Eudaily moved the amendments that were suggested to the bill. Rep. Gould seconded. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Darko moved SB 122 BE CONCURRED IN AS AMENDED. Rep. Brooke seconded. The motion CARRIED unanimously.

HEARING ON SENATE BILL 157

Presentation and Opening Statement by Sponsor:

Sen. Dennis Nathe, District 10, stated that this is the civil side of sexual abuse and applies the discovery exception to sexual abuse cases. This would be their redress for a wrong committed against them.

Testifying Proponents and Who They Represent:

Rep. Dave Brown

Rep. Bill Strizich

Jeanne Kemmis, Attorney, Direct of Parents Anonymous

Holly Franz, Attorney

Leo Gallagher, Lewis & Clark County Attorney's Office

Noel Larrivee, attorney

Brenda Nordland, Attorney, Women's Lobbyist Fund

Dr. Janet Allison, Clinical Psychologist

John Madsen, Department of Family Services

Steve Waldrom, Director of Montana Council of Mental Health Centers

Carol McKerrow, Montana Committee for Prevention of Child Abuse

Susan Swineheart/Janet Benson, Montana Association of Social Workers

Brenda Nordlund, Montana Women's Lobby

Noel Larrivee, Montana Advocacy Project

Megan Hill, Montana Catholic Conference

Tony Nikolas, Montana Education Association

Holly Kaleczyc, OPI

Leslie Burgess, self

Elizabeth Williams, self

Susan Kraft Ball, self

Proponent Testimony:

Jean Kemmis stated that the purpose of SB 157 is to allow application of the discovery rule to civil cases involving childhood sexual abuse. The discovery rule already exists in law and is an exception to the statute of limitations in civil cases. The discovery rule applies where the special circumstances of the case involves inherent delay which is beyond the control of the individual who is to bring suit. SB 157 should be passed in order to include the cases of childhood sexual abuse within the coverage of the discovery rule because childhood sexual abuse involves circumstances of delay in bringing suit which are beyond the control of the person who is injured. The Montana Supreme Court was asked to apply through judicial interpretation the discovery rule to these cases although courts in Wisconsin and Massachusetts but our court declined saying the Legislature

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 6, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

March 6, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 122 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Dave Brown, Chairman

[REP. DAVE BROWN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 6.

Following: "AN"

Insert: "IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE"

2. Page 3, line 6.

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

Renumber: subsequent section

3. Page 3, line 7.

Following: "applies"

Insert: ": (1) retroactively, within the meaning of 1-2-109, to offenses that occurred before [the effective date of this act] and for which the statute of limitations has not expired on [the effective date of this act]; and
(2) "

Amendments to Senate Bill No. 122

Proposed by Senator Dennis Nathe,
sponsor, SB 122

Drafted by Valencia Lane, Legislative Council

1. Title, line 6.

Following: "AN"

Insert: "IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE"

2. Page 3, line 6.

Insert: "NEW SECTION. Section 2. Effective date. [This act] is
effective on passage and approval."

Renumber: subsequent section

3. Page 3, line 7.

Following: "applies"

Insert: ": (1) retroactively, within the meaning of 1-2-109, to
offenses that occurred before [the effective date of this act]
and for which the statute of limitations has not expired on
[the effective date of this act]; and
(2)"

It is not until they reach the age of majority of age 18 until they usually are able to speak up. The bill would put time on the victims side and not on the offenders side. (Exhibit 4).

Marty Adrian went on record to support the bill.

Carol McKerrow representing the Helena Council for the Prevention of Child Abuse and the Montana Committee for the Prevention of Child Abuse supported the bill.

Brenda Nordlund, lobbyist for the Montana Womens Lobby, supported the bill without reservation.

Fay Dozier spoke as a survivor of sexual abuse (See Exhibit 5).

Rosanne Davis, testified in support of the bill to extend the statutes of limitations for the victims of child sex crimes. She described the physical and psychological abuse that occurred when she was as young as three years old. (Exhibit 6).

Michael Sherwood, testified in support of the bill. He said that ten years ago he served as a public defender in Missoula County (Exhibit 7).

Judy Lange rose in support of the bill.

Elizabeth Williams testified in support of the bill. She said she brought the case before the Supreme Court and is a survivor of child sexual abuse.

Susan Kraft Ball, a survivor of child sexual abuse, spoke in support of the bill.

Patricia Lukavsky asked to go on record in support of the bill.

Questions From Committee Members:

Senator Pinsoneault asked the Attorney General a question. He informed the committee that he was a member of the Youth Advisory Council during the interim that addressed this issue in particular the difficulty in prosecution. The question was if the AG's office would have someone specialized in that office to prosecute these types of cases to assist the county attorneys in these types of actions. Marc Racicot replied yes, and that prosecutors were available now. He said he wholeheartedly supported any help on the topic in order to provide better services.

EXHIBIT 2
DATE 3/6/99
SB 122

WITNESS STATEMENT

NAME LEWIS PEREZ BILL NO. SB 122

ADDRESS 129 11th Ave N Shelby

WHOM DO YOU REPRESENT? SELF

SUPPORT ✓ OPPOSE _____ AMEND ✓

COMMENTS: CHANGE EFFECTIVE DATE TO INCLUDE
ALL INSTANCES THAT ARE CURRENTLY OPEN UNDER
THE STATUTE OF LIMITATIONS

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Senate Bill 122 - NATHE - Revision of the statute of limitations for child sexual abuse prosecution

WE, by our signatures, support SB122, and hereby request that the legislature adopts the revisions to MCA 45.1.205 as proposed by this bill.

NAME	CITY	SIGNATURE
Lewis PEPPLES	Shelby	<i>Lewis Pepples</i>
Patricia E. White	Shelby	<i>Patricia E. White</i>
Jim Hucker	Shelby	<i>Jim Hucker</i>
Maribeth Pepples	Shelby	<i>Maribeth Pepples</i>
Jeremy L. Branch	Shelby	<i>Jeremy L. Branch</i>
Colby L. Branch	Shelby	<i>Colby L. Branch</i>
Marlyp Robertson	Shelby	<i>Marlyp B. Robertson</i>
Mary H. Brown	Shelby	<i>Mary Helen Brown</i>
CORRINE BREERHART	Shelby	<i>Corrine J. Merhar</i>
Judith J. Nicholas	Shelby	<i>Judith J. Nicholas</i>
CYNTHIA L. CRUZ	SHELBY	<i>Cynthia L. Cruz</i>
J. J. Jenson	Shelby	<i>J. Jenson</i>
Mabel Jenson	Shelby	<i>Mabel Jenson</i>
Mary Schmidt	Shelby	<i>Mary Schmidt</i>
CAROLYN TOECKES	Shelby	<i>Carolyn Toeckes</i>
Kimberly Hayes	Shelby	<i>Kimberly Hayes</i>
Judy A. Robinson	Cut Bank	<i>Judy A. Robinson</i>
Lana Dupont	Shelby	<i>Lana Dupont</i>
Jane A. Kindzierski	Shelby	<i>Jane A. Kindzierski</i>
Barb A. Bacon	Shelby	<i>Barb A. Bacon</i>
James B. Porter	Shelby	<i>James B. Porter</i>
Bea Mascareñas	Shelby	<i>Bea Mascareñas</i>

DATE 3-6-89

SB 122

Senate Bill 122 - NATHE - Revision of the statute of limitations for child sexual abuse prosecution

WE, by our signatures, support SB122, and hereby request that the legislature adopts the revisions to MCA 45.1.205 as proposed by this bill.

NAME	CITY	SIGNATURE
Joseph P. Pehan	shelby	Joseph P. Pehan
Kelly J. Hertz	shelby	Kelly J. Hertz
Verna M. Otis	Shelby	Verna M. Otis
Rosemary Battleson	Shelby	Rosemary Ann Battleson
Ronald T. Migneault	Shelby	Ronald T. Migneault
Lois L. Migneault	Shelby	Lois L. Migneault
David J. Hollingsworth	Shelby	David J. Hollingsworth
Roger Shepherd	Shelby	Roger Shepherd
Jacqueline M. Rathef	Shelby	Jacqueline M. Rathef
Charles C. Rolff	Shelby	Charles C. Rolff
James R. Bruner	Shelby	James R. Bruner
Norman O. Peterson	Shelby	
Fern Bruner	Shelby	
Emma Peterson	Shelby	
Karen Nasen	Shelby	
Leonard M. Villamor	Shelby	Leonard M. Villamor
Julie Shepherd	Shelby	Julie Shepherd
Deanna L. Hillner	Shelby	
Mike Shepard	Shelby	Mike Shepard
Melodee Robins	Shelby	Melodee Robins
GEARY S. BARGAS	Shelby	Geary S. Bargas
Beverly BARGAS	Shelby	Beverly S. Bargas
Carmelita P. Flynn	Shelby	Carmelita P. Flynn
Tom FLYNN	Shelby	Tom Flynn
Jane Allmaras	Shelby	Jane Allmaras

Senate Bill 122 - NATHE - Revision of the statute of limitations for child sexual abuse prosecution

WE, by our signatures, support SB122, and hereby request that the legislature adopts the revisions to MCA 45.1.205 as proposed by this bill.

NAME	CITY	SIGNATURE
Lue Jacobson	Shelby	Lue Jacobson
Jay Lanus	Shelby	Jay Lanus
Lynn Pettigrew	Shelby	Lynn Pettigrew
Helen F. Bryson	Great Falls	Helen F. Bryson
Ronald W. Bryson	Great Falls	Ronald W. Bryson

EXHIBIT 3
DATE 3/6/89
~~FILE~~ SB 122

S.B. 122

I am Janet Allison, Ph.D., a licensed psychologist from Missoula. I am here to testify in favor of S.B. 122, based on my past decade of intensive work with child sexual abuse victims, offenders, families, and adult survivors. I also represent the Montana Psychological Association in its support for this legislation. It has only been in the past 10 - 15 years, that we, professionals and the general public, have come to understand the scope of this problem. Research shows that at least 33% of girls and 20% of boys are sexually abused by the time they reach adulthood. The effects on their lives are devastating.

Understanding the context in which sexual abuse occurs is essential to understanding the intent and form of S.B. 122. Approximately 80% of offenders are family members or other trusted authority figures. Keep in mind, while listening to survivor testimony, that these sexual abuse survivors are talking about fathers, uncles, grandparents, long-time family friends--people who were crucial to their emotional and physical survival as children.

An offender sets up a secret relationship with the victim, with threats of violence or abandonment (of the victim and/or the family), with offers of special attention or favors, and with other forms of overt or subtle coercion. This trusted figure uses his position of power to ensure the child's silence and the keeping of the secret. Often the offender also persuades the child that the increasingly sexual contact is "normal" and good. Thus, the child victim is led to believe that he or she consented to the abuse, and therefore is responsible for it. Children developmentally tend to believe that they are the cause of the things that happen to them and their families. Together with the power dynamics of the abusive relationship, this tendency causes victims to believe they are entirely responsible for the abuse, and makes disclosure next to impossible.

For boy victims, the unlikelihood of disclosure is even greater. Male identity in our culture allows little room for the experience of being a victim, especially sexually. And so when a boy is molested, tremendous shame adds to the difficulty of admitting that this has occurred.

In rare instances, a child somehow manages to overcome all these obstacle and disclose, usually to a family member, that sexual contact has taken place. But all too often the victim is not believed, or is blamed for the abuse, or nothing effective is done to stop the abuse. The entire

family, very frequently, is dependent upon the offender emotionally, physically, and/or financially. Thus, prosecution cannot occur, because it depends on an adult taking action that, often, they feel unable or unwilling to take.

Until child victims reach the age of majority, then, prosecution usually is impossible because of the persistent secrecy, the child's inability, by virtue of being a child, to communicate or take action, and the dependence of victims and family on the offender.

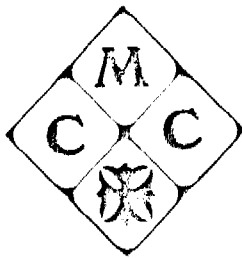
One concern that could arise about this bill is that it would increase the likelihood of false allegations of sexual abuse. This is not the case. My experience, as well as the developmental literature, indicates that young adults (ages 18 to 23) are still emotionally very attached to their families. They may be angry at former caretakers, but they would be extremely unlikely to initiate prosecution of them, even if it was warranted. Also, tremendous stigma, family and social disruption, and pain is involved in even the initial stages of prosecution of a sexual crime, especially against a family member or friend. I don't believe I have ever dealt with a victim (child or adult), even in cases of successful prosecution, who did not seriously consider giving it up. Even if this weren't true, our system has strong safeguards: because the burden of proof is on the accuser, prosecutors will not attempt to prosecute if the evidence is not strong.

Researchers estimate that fewer than one percent of child sexual abuse cases ever are prosecuted; this bill would only increase that figure by some small increment. I have dealt with a number of cases in which a young sexual abuse survivor finally was able to disclose her experience of abuse in the first few years after moving out of the parental home, either to a family member, to a close friend, or to a therapist. In a few cases, the abuse had continued into late adolescence, so that the current statute of limitations had not run out. This allowed the possibility of a formal report being made and prosecution being initiated by the State.

It is important to understand that, even if an offender stops molesting a particular victim for some reason, he is extremely likely to continue finding and molesting other victims unless the legal system becomes involved. Molesters are almost always terribly defensive and unwilling to seek out and commit themselves to the long hard work of changing their attitudes and behavior. Prosecution is the most effective (and often the only) tool to mandate the

intensive, long-term psychological treatment necessary for offenders actually to change.

If child molesters continue to believe that they cannot be prosecuted for their sexual assaults, they have no incentive to resist their impulses to molest or to get help for those impulses. The current statute of limitations essentially gives a green light to potential molesters. S.B. 122 would have real deterrent value in that it sends a message that we as a society will hold offenders responsible for their crimes, even as their child victims become adults; that we will not allow them simply to go on indefinitely destroying children's lives.



Montana Catholic Conference

EXHIBIT

4

DATE 3/6/89

~~SB~~ SB 122

March 6, 1989

CHAIRMAN BROWN AND THE HOUSE JUCICIARY COMMITTEE

I am Megan Hill, representing the Montana Catholic Conference.

We support both SB 122 and SB 157. Child abuse is often an intergenerational problem. Most victims need the extension of the statute of limitations in order to realize that a crime has occurred, and the maturity to be no longer under the domination of the abuser. The costs of counseling are often very burdensome and may continue for years. However, if damages were available in child abuse cases, the chain of continued sexual abuse would have a chance at being broken.

We strongly urge your support of SB 122 and SB 157.

My name is Rosanne E. Davis. I am 36 years old and a resident of Missoula, Montana for the past five and a half years.

I am giving my testimony in support of the proposed bills which would extend the criminal and civil statutes of limitations for victims of child sex crimes. I am doing so because I am a survivor of child sexual abuse who has had no remedy, and therefore no rights. Even if the proposed change is passed, it will not benefit me directly but my testimony is important in enabling other survivors, both men and women, to pursue redress.

Shortly after moving to Missoula in 1983 I began experiencing night terrors. I felt that someone or something was creeping around my bedroom and I was too paralyzed with fear to get up. I laid awake all night and slept when I could during the day. I entered counseling after several weeks of this.

During the initial interview, much to my surprise, my therapist asked if I had been sexually abused as a child. Until that point in time I believed that I had never told anyone what had happened to me. Thus my odyssey began. The majority of the following testimony is derived from memories gathered within the past five years.

I am the oldest of six children. I have two sisters, both of whom were also sexually abused, and three brothers, one of whom I suspect was abused sexually. From the outside, I imagine that we looked like the all-American family. My mother was a homemaker until my parent's separation and subsequent divorce. My abuser, worked as an electronics engineer and was President of the Jaycees. We were practicing Episcopalians.

The earliest memory that I had of being sexually abused occurred when I was five or six years old. This involved sexual intercourse by my abuser. Incidents of sexual abuse repeatedly occurred until I was twelve years old ranging from sexual fondling to intercourse.

I did not know until 1984, at the age of 32, that the sexual abuse began before I was three years old. This knowledge had a profound affect on me. As a child I reasoned that the abuses I had experienced occurred because I was a bad child who deserved to be punished. As a teenager, I had been led to believe that I had seduced my abuser, as a five year old. I owned the responsibility for what had happened to me; I thought it was my fault. Not only did I carry that shame and guilt for over twenty years, I actively hid in fear that someone would find out what a truly evil person I was.

I was not only abused sexually. I was also verbally, physically and psychologically abused. I was told before the age of ten that I was a "slut". I was told that I was nothing; that my abuser had created me and that I was a "slave". I suffered severe beatings with belts, sticks, ping pong paddles; and was thrown, shoved, slapped, kicked and hit with a fist.

As a child, I believed that other families were like ours. Not until I was approximately nine years old did I suspect that something was wrong when my abuser began threatening me with death should I ever tell anyone what he was doing.

I had no reason to doubt the sincerity of my abuser's threats. I believe that he could, at any moment, choose to kill

me. He forced my sisters and I to witness the death of our kittens by stoning them. He strangled the neighbor's cat. He kicked our dog to death while it was chained to its dog house. I refused pets fearing that my abuser would kill them as well. I was pulled into deep water at a lake and while my abuser sexually assaulted me, in front of a beach filled with people, he held me at chin level in the water and told me that if I made a sound, he would drown me. He kept a gun in the house that had a silencer which he would screw on and sitting by the open back door, shot anything that trespassed our property. By the time I was ten I purposefully chose to stop crying knowing that my abuser derived a perverse sense of pleasure from my pain.

Within an eleven year period, our family moved a minimum of six times. We had telephones in our home until my abuser ripped the last one from the wall when my mother attempted to call for help. He broke her wrist. My mother did not own a driver's license or know how to drive a car until she was almost forty years old. I am convinced that my abuser purposefully chose to isolate the family.

He decided with whom I could be friends and at a moments notice would tell me that I couldn't play or talk to someone ever again. And I did not. In fact, I stopped making friends with other children because I could not stand the pain of losing them. I could not count on anything; love became equated with violence. I spent most of my childhood alone, hoping that someone would see what was happening and rescue me. No one ever did, although I learned later that people were aware of the violence in our household.

My abuser was omnipotent. I lived in constant fear, trying to anticipate his moods in order to avoid another abusive event. Prior to my twelfth birthday I had decided that when the next episode of abuse happened that I was going to shoot my abuser with his own gun. I couldn't see any other way to make it stop.

My abuser was removed from our household in 1964 after he sexually assaulted an eleven year old friend of my sister. He was sent to prison and my family moved out of state. My mother was thirty-two years old and had six children ranging in age from twelve to two. We lived with the fear that my abuser might find us.

As a teenager I lived in extreme poverty and began working when I was thirteen. I spent most of my time on the streets, started drinking at the age of fifteen, attempted suicide at sixteen and was pregnant by seventeen. I married and left home at eighteen. Two children and five years later I was divorced. I raised my children alone for fourteen years and remain single.

The only discussion (prior to therapy) concerning the sexual abuses I experienced as a child, was with my mother when I was approximately fourteen. I simply told her that it had happened and did not go into any detail; I wanted to protect her. At that time my mother denied knowledge of the sexual abuse. I was told that good people "forgive and forget". Our family remained one in which we did not discuss those early years; if we didn't talk about it, it didn't happen. I spent the rest of my life forgetting which I was able to do until the night terrors began.

Ex. #5

3-6-89

I have since learned that my mother did know about the sexual abuse because I had told her when I was three years old. She has stated that I sought protection from her on several occasions. I have no memory of these events.

Given the fact that society did not recognize child sexual abuse or battered women, nor did it provide protection to victims of abuse, my mother did not possess any alternatives to protect either herself or her children. Child protective services or a welfare system did not exist. Teachers, school counselors and other professionals were not trained to identify children such as myself. No one talked about the sexual abuse of children or that it even existed until recently. The general public is still uncomfortable in admitting that child sexual abuse exists.

My abuser was both verbally and physically abusive to my mother. She attempted to have my abuser committed in the late 50's, only to be told that he would be given thirty days written notice. Knowing that we would most likely be dead before the thirty days was up, my mother dropped the case. She went to our minister for help who told her that she should try harder to make the marriage work. She managed to get my abuser to leave the family several times before I was eight years old only to have him return with assurances that he had changed. My mother could not tell her family. Both of my parent's had been abused as children. In the finish, she resigned herself to the circumstances in her life.

I did not bring forth criminal charges within the current statute of limitations because I was obviously¹⁰ capable of doing so as a sixteen year old. Provided that my entire family had been traumatized by my abuser, it is unthinkable that I would have been supported in filing criminal charges while I remained in the family and the option to do so did not exist for me once I did leave. Indeed, my family of origin continues to maintain a conspiracy of silence and denial, of shame and guilt.

In summary, my abuser has to my knowledge, a nine year history of sexual crimes involving four children. I have no doubt that there are and continue to be other victims. My ability to file criminal charges against my abuser would have perhaps prevented the further sexual abuse of other children. More importantly, it would have enabled me to continue in my life without carrying the responsibility and burden for my own victimization.

SB 122 - Revised Criminal Statute of Limitations for Child Sexual Abuse

My name is Patricia, I do not feel like I can use my full name because I still fear for the safety of my family and myself. However, as a 28 year old incest survivor, I feel my testimony will aid you in your decision on the legislation now before you. In the interest of being brief, I will attempt to outline my experiences.

In the process of recalling details regarding the sexual abuse, in order to write this testimony, I've experienced renewed pain, terror, grief, and depression. I was sexually abused as a minor by 6 different perpetrators: an unknown perpetrator, my father, three brothers, and my bother-in-law. My age and the duration of each episode are as follows: before 3, at 5, 9-12, two different abusers at 15, and at 16-17 years old. The different forms of sexual abuse I experienced included: forced fondling, groping, attempted rape, rape, getting urinated on, and forced oral sex. I was raised in a dysfunctional family where alcohol abuse was prominent. Secrecy about the family was maintained by constant verbal abuse and physical violence by both parents and all siblings. The unspoken rules of the family were don't trust, don't feel, and above all don't tell. I felt if I didn't obey these rules it would destroy the family and I could be killed. That is why my first 5 abusers knew they didn't need to make specific threats. The last abuser, my brother-in-law, did threaten me with death if I told. My reactions to the sexual abuse were to fight it, avoid it, submit to it, and withdraw from it in order to survive. My perpetrators used coercion, trickery, and entrapment to force me to submit, and once trapped I felt terrified and helpless. As a teenager I confided in 4 different adults about the sexual abuse. My priest punished me with penance, my half-sister blamed me, my mother minimized it, and my brother-in-law took advantage of the information and trust

to begin sexually abusing me. Telling produced negative feedback that reinforced feelings of helplessness and responsibility that I tried to escape with alcohol and substance abuse. During the last period of sexual abuse at age 17, I began a long period of sexual promiscuity. I felt powerless against any male advances and felt I didn't have any other choice. I left home when I turned 18 in an attempt to break family ties and lead a "normal" life. Shortly after, in need of acceptance and love, I married a man who continued to victimize me with sexual abuses until we divorced when I was 22. During this marriage I depended heavily on reaffirmation from my family which continued until a year ago when I indirectly confronted them about the sexual abuses. They denied it, threatened me, and abruptly cut off all communication with me.

I entered my current relationship when I was 22. The repercussions of my abuse began overwhelming me at the age of 25 when I began physically abusing my husband and children. In an attempt to find out why and correct it before I lost my husband and children I entered counseling and eventually an incest survivors' group. I have been in counseling ever since and have gradually discovered the connection between the repercussions I have experienced, and have to deal with the rest of my life, and my abuse. I feel the following repercussions are the direct result of the combined abuses I experienced as a child: severe depressions, suicidal attempts, tendencies, and other self-destructive behaviors, alienation from peers, spouse, children, and society in general, anxiety, insomnia, inability to make decisions for myself, mistrust and fear of people, confusion, eating disorders, and a loss of personal identity. Even though they could also have been produced by the different forms of abuse individually, I feel the sexual abuse in particular intensified the repercussions dramatically. The repercussions I feel are due solely to the sexual abuses, and which

especially affect my marriage are: sexual promiscuity, flashbacks to the abuses, nightmares of sexual abuse, confusion about sexuality, and shame of and disconnection from my body.

Out of all six abusers, one has acknowledged the abuse on me and has reformed, one is currently serving a prison term due to molestation of another child, another one has molested at least one other child that I know of since me, and the others I suspect are still sexually abusing children. I strongly feel that if the criminal statute of limitations were to begin at the age of majority it would cut down on sexual abuse. Others in similar situations to mine who are more successful in separating themselves from their dysfunctional family might have a chance to seek out help sooner because of increased awareness and support. Because the proposed law did not exist and I was not in a position to act on the existencing laws I feel 3 of my perpetrators are still abusing except for the one that is in prison because one child was lucky enough to tell the right adult.

DATE 3/6/89

SB 122

I wish it was possible to simply start new from today but the abuse still haunts me. I was totally unaware of the ongoing effects of sexual abuse. I haven't been able to have a successful relationship or even to ask for my needs to be met. I raged out of control the first year of my marriage, only to feel worse about myself. I lacked self-esteem. I suffered varying degrees of anorexia in my twenties. I worked to exhaustion trying to feel like I was worth something. I've done crazy things to get male approval. I've protected my children to the point of smothering them due to my fears of them being sexually abused too. I've been severely depressed and contemplated suicide on several occasions. I wanted to be loved so badly. I felt awful for so long but never knew why.

Years later, in my thirties, I was in a physically abusive relationship. I went to a therapist for help. That's when I started piecing the craziness of my life together and realized some of the effects the sexual abuse had.

I would avoid legal remedy if there were compensation or ways to deal with this on a level of honesty. Since there aren't, the laws need to support the victim as much as possible. To my knowledge, my stepfather has never received any help for his sickness and could therefore still be an abuser.

I wasn't aware of ongoing effects from the abuse within the statute of limitations. My testimony supports the proposed delayed discovery law -- it would be a great benefit to survivors under duress and the illusion that sexual abuse is "no big deal." The fact that cases will be brought into public court with more media exposure will show victims they can stand up against their abusers. The abusers will be sent the message that this dark secret has come to light and that retribution for their actions is likely.

Sexual abuse and its effects can cover a wide range. I think people saw abuse only as violent, gory sexual assault and that "fondling children [wasn't] that destructive." That may change and make the public more aware with the passage of this law. The proposed law gives victims the time they may need to recognize and admit to the devastation caused them by being sexually abused.

My name is Sandra Ward Gursky. I am forty five years old, and I am a SURVIVOR
OF CHILDHOOD SEXUAL ABUSE.

I was six years old when it began. I was the "favorite" child in the family. He took me everywhere with him. He took me to his place of work, but only when no one was there. There he made me watch him urinate, and then he would make me touch his genitals. When my Mother was out in the evening, he would take me into their bedroom and take off my clothes from the waist down and make me sit on his bare body while he lay on the bed. I cannot say if there was intercourse. These two incidents happened over and over during a two year period. I remember them very clearly, but when I try to remember past a certain point, I cannot. Those two years contain many blank spots. I do remember being in fear constantly. He told me he would hurt me if I didn't do what he wanted. Since he beat my Mother and brother regularly, I was sure he would. He also told me he would kill me if I told anyone.

When I was not quite eight, it ended. My Mother, who had suspected, forced me to tell her. I was terrified, but he did nothing. Nothing that is, except watch me all the time. Until I was sixteen years old, I spent all my waking hours trying to blend into the walls, so that he, or no other man, for that matter, would notice me. I was withdrawn, extremely shy, felt I was not a good person, and was petrified of even the idea of sex. At sixteen, he approached me once more. I ran away from home and never went back. Fortunately, I had Grandparents who were willing to accept me into their home.

At thirty four, my second marriage was showing signs of failure. I had always felt that everything that went wrong in my life was my fault, so this must be too. Why should I have a good relationship, after all, I was a terrible person, with no worth. Why would anyone want to treat me well. I started drinking heavily to numb the pain of living. From there, I started to think about suicide as an escape from this destructive life. At thirty six, feeling that my whole life was a failure, and after a particularly close call with the drinking and the suicide thoughts, I went into therapy. I thought I needed help because I was a failure at living and I had

to fix me. But, during the two year period of my therapy, I discovered that I had been emotionally crippled by the Childhood Sexual Abuse. It had affected my whole life. I was a victim as a child, and as an adult, I remained a victim. I knew no other way to live. I was unable to choose a healthy life style. My relationships had all been destructive and abusive. I was disfunctional in every aspect of my life. I overprotected my child and other children. I was suspicious of every man. I was also sexually disfunctional. The deep, dark secret of my past always made me feel like I was a freak, and unworthy of any kind of "good life". I had struggled all my life, all because an adult male had used me--a little child--as a sex toy. And, I was not the only one he had abused. Two of his brothers' daughters were his victims also. There may have been others, but we never knew of them.

At the age of thirty eight, after two years of therapy, I discovered the connection between the abuse I had suffered and my disfunctional life. By then, my abuser had killed himself and my Mother. It was too late to do anything about my abusers actions.

As a victim, I had spent a major portion of my life trying to deal with the crippling emotional impact of this abuse. I was struggling with long before I knew that it was the problem. The therapy that was necessary to help me put my life together, was very expensive, emotional and time consuming.

I think that both the bills put forth during this legislative session could be a deterrent to this abuse. If the abuser knew that he/she could be called to account for his/her actions against a child, even years after the event, perhaps more of them would get help and/or think before acting on their sick impulses. We must all be held accountable for our actions. The statute of limitations, set as they are, prevent many victims of this abuse from ever taking any action towards their abuser. While they are children, they have no power to do so, and once they have reached adulthood or discovery, the statutes have expired. The secret is kept, and the abusers continue to abuse our children.



University of Montana

EXHIBIT 9
DATE 3/6/89
SB 122

Center for Student Development • Missoula, Montana 59812 • (406) 243-4711

December 20, 1988

TO WHOM IT MAY CONCERN:

The purpose of this letter is to endorse the proposed legislation to change the statutes of limitations as they pertain to child sexual abuse. These changes will allow the adult who was abused as a child to face the abuser in court, whether criminal or civil. With sufficient media coverage, such legislation might even prevent or deter present perpetrators from continuing abuse if they know that they might be called to account when the abused child grows to adulthood. Child abuse is secretive behavior and must remain so for the abuser to be safe. Exposure for the perpetrator is the greatest fear. Any legislation that might 'stay the hand' of an abuser must be worthwhile for society as a whole.

As a clinical psychologist here at the Counseling Center of the University of Montana for over 25 years, I am well aware of the damage child sexual abuse can do to the child who is now an adult. For these victims (mostly women) the problem lies in the present, not the past. Their difficulties in present relationships, whether marriage, family-of-origin, boyfriends, or their own children, can often be traced directly to their early abuse. Even when consciously forgotten, the effect of the abuse lingers on. The damage seems never ending.

Sincerely yours,

Helen H. Watkins

Helen H. Watkins
Clinical Psychologist

My name is Talra, I am an adult survivor of child sexual abuse. ~~Talra~~ is not my real name, I do not wish to hurt any of my family by telling my story.

I'm 33 years old, and have been working on my abuse issues intensively for 1 year; however for the past 6 years I've tried to work deal with this issue but failed.

Within the past two years I have been in and out of Warm Springs State Hospital. I thought that I was going crazy. All the feelings were coming up, the ones that I've tried to dumb out since I was 7 with drugs and alchole.

Up until now, I had lost many of my childhood memories. The earliest memory I have is age 10. I think the trauma of one of my abusers giving away my toys, caused anjolt in my system, which produced a split in me. By this I mean I ended up with 3 personas. (Persona's are emotions that split off--an example Natas the keeper of anger, hate, rage.) I would see the change in me after many years, it felt like I was trapped in my own body.

I was sexually abused by 5 different perpetrators, from the memories that I have retrived since my therapy it ocured from birth up until I was 18. One of which I became pregant at 15 and had a miscarriage.

I went to my mother and other family members, but unfortunately it all fell on deaf ears. I was told that I was a liar, and that I had made it all up for attention. At the age of 13 I tried to kill my self and failed. From then on I had tried 24 more times.

When I was 19 and moved away from home I got mixed up in prostitution and ended up in jail three times for varies crimes.

From the memories that have resurfaced since being in therapy, I believe that I was abused from birth, the abuser would bathe me and in doing so would touch me in places far to long to be considered normal. This went on for 5 years then stopped for no apparent reason. While I was in therapy I learned that another sibiling was being abused by the same person. When this person went to other members on the family and told them what was going on, they looked into it and found that it was true. The abuser went through a short term treatment and was let go and was told not to do it again. Everything was fine until I reached 11-12, and then another person started to sexually abuse me, then another & another. I ran away from home, I was picked up in Missoula. I told the police that I was being sexually abused at home, but they said there was nothing that they could do about it because children were thier parents property and they sent me back home. Every effort I made to get the abuse to stop was thwarted. I finally gave up.

Since being in therapy I have confronted 4 of the 5 abusers. Three of them have taken responsibility for their actions. The other one is in denial. One of the abusers sexually abused a niece, her parents told the rest on the family to watch out for him, and to not leave our kids alone with him. I tried to get the parents to press charges, but they told me to leave him alone, hadn't he suffered enough?

I have been married for 9 years, I have two children a boy 8 and a girl 6. When my son was 2 and my daughter new born I began to physically abusing my son. I was so afraid that my son was going to start sexually abusing my daughter, I wanted to protect her any way I could even if it meant killing my son. When he turned 3 I finally got help with my abuse through Parents Anonymous. It was there that I learned where all my hate and fear was coming from. Perhaps if I wasn't abused when I was young, then my children would have had a better mother. If this law is passed, then maybe if other children go to thier families, or the authority they wont be turned away but rather be heard, and listened to and most of all protected from these people that hurt children.

Sincerely, Talra

DATE 3/6/89

HB 3/6/89

1/17/89

To Whom it May Concern,

I was molested as a child. In 1965 at the age of four I did not have the power to tell of my abuse. I blocked it from my memory.

Seven years later when I remembered, it was too late for me to take legal action. There was no intervention or advocacy for me and I suffered in silence for many years.

To this day I am without legal means or rights to sue my assailant. My rights were gone before I was ever advised of them. I have spent thousands of dollars on my recovery. As a Medicaid patient the taxpayers have spent for my recovery.

If the Statute of Limitations had been extended before my twenty third birthday, I would have been able to seek restitution.

It is absolutely imperative
for the millions of sexually
abused children to have a
voice.

Our society is morally obligated
to listen to their voices and
we are morally obligated to
take action against abuse. We
must allow our children to
have the power to say no.

As the parent of a sexually
abused child and as a
survivor of sexual abuse, I'm
telling you it is hellish
torture and I strongly urge
you to extend the statute of
limitations.

Thank you,
Kemp Haffner

Mr. Chairman, Members of the Committee:

My name is Fay Dozier of Reedpoint, Montana. You may recall that I previously testified before your committee on another child abuse bill. I am unable to give oral testimony on SB122, but want my testimony on the record.

As I previously testified, I was sexually abused for 13 years--from age 5 to 18. After I ran away from home at age 18, I reported my molestor to the authorities. However, because I was of "legal" age, I was told there was nothing they could do. Charges were brought against my molestor after I pleaded that at least one of my four sisters was being molested. Unfortunately, my family would not support my allegations and the case was dropped.

Since that time my molestor has abused all four of my sisters, a step sister and a two year old half sister and is suspected of molesting many more children. This individual has been molesting for over 30 years now and is still running loose even though he was prosecuted for molesting my step-sister.

Had I been able to successfully have him prosecuted when I was 18, many innocent lives would have been spared the devastating emotional and mental anguish that results from sexual abuse.

I felt "safe" at the age of 18 and felt able to turn my molestor in, but prior to that I was so afraid of the repercussions that would result if I told that I felt I had no where to turn for help. As I previously stated I was not only sexually abused, but physically, emotionally and mentally abused as well.

It has been my experience as a result of many painful years of therapy, that most victims of sexual abuse cannot turn in their molestor when the molesting is taking place because of fear and because of the emotional blackmail that is used on them to keep the "family secret".

If a law such as this proposed one would have been in effect at the time I was molested, my abuser might have been stopped--at least it might have made him think twice before he violated another innocent child.

I strongly support SB122. Thank you.

Fay Dozier

EXHIBIT 13
DATE 3/6/89
~~SB~~ SB 122

Kim Darling
626 N. Caravan
Missoula, MT 59802
January 18, 1989

TESTIMONY FOR THE LEGISLATIVE RECORD RELATIVE TO SENATE BILL 122

I am an incest survivor. I discovered this when I was twenty-nine years old. Prior to this discovery, I suffered suicidal depression for ten years. I was disabled by an eating disorder and drug addictions. I began seeing therapists when I was twenty-eight because of difficulties in my marriage. Although the therapy was helpful, I had a sense that I had still not gotten to the source of my difficulties. Then, while participating in a workshop on incest as part of training to work in a crisis intervention network, I encountered a list of characteristics of incest survivors. Every item on the list applied to me. The next day, during the course of personal sharing in the workshop, I began to remember specific incidents of sexual abuse in my childhood. The process of remembering continues for me even now.

Since the time of the initial discovery, I have completed a BA in Social Work and am working in the recovery process with other survivors. This recovery process requires letting go of feelings of responsibility for what happened to us as children. It requires moving through intense feelings of anger, fear, grief and shame. This recovery process begins after we break through the very thing that helped us to survive, that is, denial. Again and again I have seen women accomplish this in their late twenties and early thirties. It is unrealistic to expect survivors to be willing or able to confront their abusers while they are still dependent, physically, emotionally, and economically on the familial system in which the abuse occurred. In young adulthood, the denial that allows for survival is still functional.

I confronted the man who abused me about that abuse three years after I began to remember it. He laughed at me. He denies still, as he did then, that what he did to me was injurious. He is supported in his denial by a cultural denial of the existence and extent of injury done by the sexual abuse of children.

I urge you to pass this bill before you. It is a significant step in breaking through cultural denial of the effects of childhood sexual abuse.

SB 157
SB 122

EXHIBIT 14
DATE 3/6/87
~~SB~~ SB 122

Ladies and Gentlemen;

My name is Nocona. For legal purposes I chose not to use my legal name.

When I left my hometown in 1980, on my way to Montana, I was 21 years old. At the time I left I did not realize my statute of limitations was running out. I did not know I had a statute. I thought if I left and changed my name my life would be different, I would be different. I believed I could handle my past and emotions without counseling. I did not think there was anything wrong with me. I look back now and realize I had no responsibility, trust, self-esteem, honesty, family, childhood or God.

I was kept from my family for approximately six years. The excuses - endless. Only through counseling did I relate the damages of my past and present to the abuse. My anger is most dangerous to myself. I don't know how to be angry. I wasn't allowed to show anger. I used drugs and food as a way to cope with everyday life. I now have a child and I am very conscience of changing his diaper and teaching him his body parts. I can't say the word "no" to my husband when I am in an intimate situation. I am in approximately four hours weekly of intensive counseling.

I went public with my abuse shortly after the birth of my child and had told nobody before. My husband of four years had no idea. I did not have the trust in anybody to tell.

I could not go to the police for my offender was a police officer. I could not go to the church for my offender was my Sunday school teacher. People have asked me, "why did it take so long to come forward?" My offender had threatened my life saying, "if you tell anyone I will kill you." I was also told, "how easy it would be to break your neck." I believed this. I still do.

I have carried my abuse with me since I was six years old. It stepped for awhile until I was 10 years old, then continuously to the age of 16 years old. I am the eldest of five children, three girls and two boys. There was not anyone to turn to.

After I told my husband of my years of abuse, he confronted my offender with his knowledge and asked for help paying for the counseling I was to face. My offender refused to pay what my insurance would not cover and began denial. We were told we would have to take legal measures in order for my abuser to take responsibility for the damages caused.

On my second visit to my therapist I asked her if, "I was the way I am because of the sexual abuse?". I didn't know the answer to my question. That was my point of discovery.

When my emotions come into my life, be it anger, distrust, helplessness and depression, they are not that of an adult. They are that of a 10 year old. This is where I quit growing emotionally. 10 year olds can not protect themselves

themselves while doing sexual acts of adults. An adult can protect a child of 10 years old. There are three years of my life I can't remember, 13, 14, and 15. I think that my mind is wonderful in the way it protects me and I think that when I am strong enough to remember, I'll remember.

The nature of my abuse was; me touching my offenders private parts at the age of six years old. At 10 years old my offender would intrude the bathroom while I was urinating. At 11 years old there were pornographic movies for stimulation and learning techniques, oral sex, use of an instrument, voyeurism (having me watch my offender with another victim and non-victim) and sexual intercourse.

I did these things to save my life. I would survive by pretending I was not there or by focusing on an object so I would not feel. I did feel disbelief. I did feel betrayed then and now. The betrayal of someone I trusted was beyond my comprehension as a child. I felt it was my fault, that I had done something wrong, but I couldn't figure out what it was. I did feel it was the only way this person loved me. I felt sorry for my offender. As a child there was no logic. As an adult there is no logic. I was my offenders property to do with as wanted.

With the denial, this abuser has not accepted the responsibility of these actions and does not acknowledge any wrong

doing. Three young children were being abused at the same time my abuser was allowed to work with children in the community based on trust. Present laws with their short statute of limitations are obviously ineffective in preventing sexual abuse. The abuser avoids discovery and prosecution by simply threatening a terrified child with physical harm. Their abusers need to be made responsible to their victims through more encompassing legislation. Then and now it is accepted by society as a problem, the victims problem. With the statistics as they are known, it is an epidemic that needs to be controlled. It needs to protect children who are so helpless and defenseless against abusers with power and strength. We need to stop this vicious cycle of abuse. Children need to be heard and protected. They need to be given a chance in life to live it to the fullest and to become responsible adults.

I did not realize until recently how my life was affected by my abuse. The simplest things in life are so difficult to perform, ordering out of a restaurant menu to being overwhelmed by ordinary everyday household chores or looking at my husband and child after I have verbally channeled my unwanted anger at them. Thinking in a matter of five minutes, four different ways to commit suicide. I isolate myself from people who love and care for me and try to get close to me. I push them away for fear of being rejected.

3-6-89

I am reprogramming 24 years of habits, addictions and survival techniques that are of no use to me as an adult. When my husband married me he had no idea of my past and now he feels the rape, abuse and anger that I do, because he loves me. I see the pain in his eyes, for me. I see his helplessness. How do I teach my child the important morals in life; trust, self-esteem, honesty, responsibility, family and God if I don't know how myself? I am learning at 30 years old, ever since the silence was broken.

1/17/89

To Whom it may Concern,

" I think we should change this law because if people get molested and don't tell within seven years then they don't get to get it off their chest and tell by suing the person who molested them. "

" If I myself didn't report it in seven years I would feel really bad cause I hadn't gotten it off my chest.

If I hadn't told, that person would still be molesting children and I feel very strongly about children's rights. I think this law will encourage children to tell their problems. That's why I think we should change

this law. "

- Violet Hopkins

Age 9

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. SENATE BILL 122 1062 DATE MARCH 6, 1989SPONSOR SEN. NATHE

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Susan Kraft Ball	Self	✓	
Elicabeth Williams	Self	✓	
JANET THOMPSON John Madsen	SOCIAL WORKERS Family Services	✓	
Janet R. Allison	MT Psych Assoc. / self	✓	
Leslie Burgess	self	✓	
ROSANNE E. DAVIS	Self	✓	
MAR. BOB Pepples	self	✓	
Lewis Pepples	SELF	✓	
John Connor	Dept of Justice Mt County Atty Assn	✓	
Joanne Kemmis	Parents Anonymous of Mt.	✓	
Dennis Hatcher		✓	
Joet Benson	MT Assoc of S.W.	✓	
Megan Hill	Mt. Catholic Conf	✓	
Janet Coughlin	Carroll College	✓	
Ind + L Ross	self	✓	
Joanne Shearer	Pro-Family Women's Lobby	✓	
Brenda Novellund	MT Women's Lobby	✓	
Christie Marron	MT Council of Mental Health Centers	✓	
Rep Bill Huth		✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

Marti Adrian

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY. X

Toni Niklas

Mont. Educ Assoc. ✓

CS-33

Justith H. Carlson

MT Educ Assoc ✓

Judiciary

SPONSOR Nathe

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SENATE BILL NO. 122

INTRODUCED BY NATHE, REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTE OF LIMITATIONS FOR PROSECUTION OF CHILD SEXUAL ABUSE CRIMES; AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for criminal homicide may be commenced at any time.

(b) A prosecution under 45-5-502 through 45-5-505, 45-5-507, or 45-5-625 may be commenced within 5 years after ~~the--offense--was-committed~~ the victim reaches the age of 18 if the victim was less than ~~16~~ 18 years old at the time the offense occurred.

(2) Except as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The period prescribed in subsection (2) is extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination thereof;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) shall be extended in a prosecution for unlawful use of a computer, and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is

1 terminated. Time starts to run on the day after the offense
2 is committed.

3 (6) A prosecution is commenced either when an
4 indictment is found or an information or complaint is
5 filed."

6 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS
7 EFFECTIVE ON PASSAGE AND APPROVAL.

8 NEW SECTION. Section 3. Applicability. [This act]
9 applies:

10 (1) RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO
11 OFFENSES THAT OCCURRED BEFORE [THE EFFECTIVE DATE OF THIS
12 ACT] AND FOR WHICH THE STATUTE OF LIMITATIONS HAS NOT
13 EXPIRED ON [THE EFFECTIVE DATE OF THIS ACT]; AND

14 (2) to ~~causes--of--action--arising~~ OFFENSES OCCURRING
15 after [the effective date of this act].

-End-